

MIDDLEFIELD PLANNING & ZONING COMMISSION
405 Main Street
Middlefield, Connecticut 06455

Minutes of the April 16, 2018 Regular Meeting

Erin Howard called the meeting to order at 6:32 pm.

Attendance:

| Members | | Alternates | |
|---------|----------------|------------|------------------|
| X | Boyle, Kevin | X | Wojas, Jan |
| X | Brown, Jay | | |
| A | Ekblade, Eric | Others | |
| X | Howard, Erin | X | Colegrove, Geoff |
| X | Wheeler, Scott | A | Curtis, Brian |
| | | X | Russ, Jerry |

A=Absent

X=Present

Jan Wojas was seated on the Commission.

Public Comment

Irene Angiletta is concerned about the development, particularly around Lake Beseck, and has noticed proposed structures expanding beyond the original footprint. She asked if the Planning and Zoning Commission has changed any regulations. Erin Howard explained that they have not changed any regulations for the lake area as of now. Geoff Colegrove explained that a building can be expanded if the property owner stays within the zoning setbacks and side lines and a variance would not be required. Otherwise, they can apply for a variance. Building on the same footprint is only applicable when the structure is nonconforming.

Mrs. Angiletta asked if the property owner needed to come before P&Z to do this and Geoff Colegrove explained that they would meet with the Zoning Enforcement Officer to ensure that all zoning regulations are met. Erin Howard added if the property owner wanted to do something that was nonconforming or needed a variance, they would go to Zoning Board of Appeals.

Marianne Corona reported that she spoke with Ed Bailey this afternoon and that he plans to hold a joint workshop with Planning and Zoning and Wetlands. Geoff Colegrove confirmed that it was scheduled for April 30 at 7:00 pm in the Community Center. Invitations are being sent to Durham and Killingworth as well. He reviewed the agenda which includes running effective land use meetings and avoiding procedural pitfalls, managing real and perceived conflicts of interest, bias and improper receipt of ex parte communications. Mrs. Corona felt it would also offer an opportunity for people to ask questions. Erin Howard did not feel that the workshop would get into specific topics on land use and development, but is purely for training for Board members. Mr. Colegrove did state that Ken Slater would allow for questions and comments. The meeting is designed for Planning and Zoning, ZBA and Wetlands.

Chuck Sheehan, Update on Xenelis Properties at 11, 30 and 34 Old Indian Trail

Chuck Sheehan and Nick Xenelis were present to update the Commission. Mr. Sheehan reviewed that they have talked about various strategies to handle the coverage for the lots on Old Indian Trail. At the end of the last meeting, the bright spot on the horizon appeared to be detention. Mr. Sheehan contacted Brian Curtis who was very, very helpful. There had been a study in 2004 for stormwater retention because there are apparently some downstream issues with volume, velocity and water quality. The property there is actually owned by the towns of Durham and Middlefield.

Mr. Sheehan reviewed the three drawings from the 2004 study and showed where Mr. Xenelis' property is located. The study looked at what it would take to site a detention basin on the property to handle the runoff from all of the lots on Old Indian Trail as well as from Old Indian Trail itself. The area is in excess of 10 acres. A detention basin that would detain the difference between 50 percent and 75 percent development would also be the first step in addressing future DEEP regulations for treatment of stormwater. The study quantified a much larger volume of water than what they had been looking at.

The primary site for the detention basin was adjacent to the stream and would not be covered by Inland Wetlands, located on lot 3 which is owned by the towns of Durham and Middlefield. The discharge pipe would come out on the south side of Old Indian Trail. Mr. Sheehan felt that the study indicates enough to show that it is feasible to build a detention basin that would serve all of the lots and would detain the water between 50 and 75 percent development. Mr. Sheehan also explained that he is waiting for more information from Brian Curtis and once that is received, he will site the detention basin and feels that it will be smaller than what it shown on the drawings. He does believe that that detention basin will suffice to detain the difference between 50 and 75 percent runoff for all of the lots.

Geoff Colegrove asked if the detention basin would also handle Industrial Park Road and Mr. Sheehan explained that he thought it would handle part of that. Mr. Colegrove confirmed that they would be addressing the runoff between 50 and 75 percent, but asked if they could backwards a bit from 50 to maybe 40 or 35. Mr. Sheehan stated that they could certainly show some increments of different levels of storage.

Erin Howard went over that there are many steps to this, including who would pay for it and getting the two towns to agree. Mr. Colegrove has talked to both First Selectmen about this and also felt that DMIAAB would need to be involved. Mr. Sheehan reiterated that this system would also benefit

downstream property owners and other people in the industrial park as well as allowing further expansion in the industrial park.

Nick Xenelis asked why the project was stopped in 2004 and Geoff Colegrove stated that no one wanted to pay for it in the Town of Middlefield. This had been an intention back in the early 70s when the site was originally developed, but the property wasn't owned at that time. Mr. Colegrove confirmed that the problem has been known for quite a while. Mr. Sheehan felt that the benefits would become more evident as the design progresses.

Erin Howard suggested that a cost/benefit analysis be done and certainly did not want to stop Mr. Xenelis from exploring this option. She does feel it's worth the opportunity if it will help to support the tax base in town. Ms. Howard would like to be sure that Mr. Xenelis continues his efforts to keep himself in compliance while pursuing this project. The other option would be leasing land and Kevin Boyle asked if Mr. Sheehan has done any research there. Mr. Sheehan stated that they have talked with the First Selectman but have not gotten any feedback.

Scott Wheeler suggested that the Commission speak with the First Selectman and weigh both options to keep this moving. He does feel that the detention basin would be a win-win for the Town and would create a more robust industrial park. Mr. Colegrove reminded everyone that the detention basin would also need to be maintained.

Mrs. Howard thanked Mr. Sheehan and Mr. Xenelis for coming back and keeping them updated. Mr. Sheehan stated that he will try to have the size of the basin and work with Geoff Colegrove on a possible road location for the next meeting or the month after. Mr. Xenelis also commented that he will speak with Ed Bailey again about the leasing.

Discussion of Interpretation of Regulations regarding Convenience Store with Gasoline Sales as a Retail Use

Geoff Colegrove distributed a memo to the Commission members. Erin Howard thanked Mr. Colegrove for the memo and stated that that was exactly what she had been looking for. She did ask if information like this could be distributed prior to the meetings in the future.

Mrs. Howard explained that she had asked Geoff Colegrove for this information and confirmed that it is the NACS codes that define gasoline stations and convenience stores as the same. She asked if there were any other definitions for gasoline stations. Mr. Colegrove pointed out that under the NACS code, this activity would be considered retail and that gas stations are also included as retail. He pointed out that this federal system of classification has a convenience store under retail.

Jay Brown felt that gasoline is a commodity and Scott Wheeler stated that the State calls a convenience store a retail dealer. Jan Wojas also considers selling gas as retail, but explained that he has reviewed regulations from other towns and his only concern would be dimensions. He does believe that a gas station that does not provide automotive services is retail and agreed with the interpretation. Jerry Russ also noted that he spoke with the ZEO in Middletown and they also classify it as a retail application.

Mr. Colegrove also explained that a D-I-Y garage does not require any motor vehicle permits and the people rent the space, parts are provided and a licensed mechanic is present, but the people do their own work. Jan Wojas felt that the problem starts with drains in the floor or pits and Mr. Colegrove explained that drains in the floor are no longer allowed. There is an application pending for that use in the industrial area in Durham.

Erin Howard thanked Geoff Colegrove for the information and felt that the Commission is comfortable with this interpretation, though there are no active applications at the moment. She will submit the Letter of Interpretation of Regulations Regarding Convenience Store with Gasoline Sales as a Retail Use, presented by Geoff Colegrove, the Middlefield Town Planner, which was sent to the Middlefield Planning and Zoning Commission, dated 4/16/18, into the record and it will become part of the minutes of the meeting.

John Corona, Discussion of Draft Agricultural Fencing Regulation

Attorney John Corona, from Lang & Corona, sent a copy of draft regulations with an attempt to include everything that had been discussed at previous meetings. It was specifically to address agricultural fencing, basically for deer protection. He has offered a replacement for section 08.14.04 which begins with language from the existing regulations and continues with a paragraph that deals with the purpose of the 8-1/2 foot fence and deleted some items that were expanded to include golf and other items. It is now strictly limited to the things listed in the first sentence of the second paragraph.

Attorney Corona also explained that in section 08.16 Fences, he created an exception that leads back to the agricultural section, 08.14.04, would be. Jay Brown asked if this would limit the fencing to wooden poles or if pipe can be used. Attorney Corona stated that he listed wooden poles because that was what Lyman Farm intended to use, but he would have no issue including that. Jan Wojas stated that they had concluded at the last meeting that metal could be used at the end or corner of the fencing in order to keep the fence in good shape. Erin Howard stated that they had discussions about trying to keep in character of the town.

Attorney Corona explained that there are two choices moving forward: for Lyman Farm to make an application for a text change or for the Commission to do it on its own. Scott Wheeler felt that the Commission usually makes the text changes and Jan Wojas felt it would simplify the process. Kevin Boyle felt that the Commission was not requesting the change, so Lyman Farm should make an application. He does not feel it is a cost issue but more of a principle. Mr. Boyle does not want the townspeople coming to a public hearing thinking that the Commission was generating this change. Erin Howard also felt that Lyman Farm should make the application and mentioned that the Commission will hopefully be looking at their regulations in the future. She did feel that the Commission should appreciate Attorney Corona's work on this and particularly the informal discussion.

Attorney Corona agreed to file an application for an amendment to zoning regulations and Erin Howard agreed to receive the application and schedule the public hearing for the May 21, 2018 meeting. Mr.

Colegrove explained that this change does not need to go to the River COG as there are no use or zone changes.

Report of the ZEO

Jerry Russ reported that a couple of new houses have come in and there have been no new violations. Mr. Russ spoke with Matt Willis about the Cihocki property and they will see about getting resolution there. There has also been notice to Jimmy D's as he is encroaching on the setback and Mr. Russ is discussing that with Attorney Willis as well.

Mr. Russ also reported that he spent last week in CAZEO certification classes and learned a lot of interesting things.

Erin Howard stated that the sign is back up on Baileyville Road and Jerry Russ explained that the town has not done a lot of enforcement on signs and there are a lot of different interpretations about what a sign in. There is a property on Powder Hill Road with a lot of political signs and Mr. Russ asked for feedback from the Commission on how they would like him to enforce this issue. Geoff Colegrove stated that a sign violation is no different than any other zoning violation and would prompt a notice of zoning violation, time to correct and a cease and desist order. He also explained that backlit signs are permitted, but the question is with flashing, rotating and moving signs. Mr. Russ mentioned that there are banners and sandwich boards around town, including DaVinci, Indian Springs and Uncle Bob's. Mr. Colegrove thought it might be helpful to get photos of typical situations and the Commission can use them as case studies to go through the regulations. Mr. Colegrove also explained that the Town of Durham has given the Selectman the authority to allow signs on the Town Green.

Erin Howard stated that she is most bothered by the signs where the people have come before the Commission for a special permit and then blatantly violate it. Jerry Russ stated that he has spoken with other towns and they drive around and pick up the signs, hold them for three days and then put them in a dumpster. Mr. Colegrove commented that the Commission needs to pick their battles and that they could spend the entire time enforcing sign regulations. Mr. Russ will follow up with pictures and then work on preparing a template letter.

Marianne Corona commented that the Town has been dealing with signs since the rock festival. Mrs. Corona also explained that Middlefield has about 13 wells that they supply water to because of the old landfill and she suggested Geoff Colegrove look into that impact.

Report of the Town Planner

Geoff Colegrove reiterated that the workshop will be held on April 30th at 7:00 pm in the auditorium downstairs at the Community Center and Ken Slater will have a Powerpoint presentation. He will take questions and comments during the presentation. Attorney Branse was not available, but Mr. Slater has done this type of workshop many times. Erin Howard was concerned that invites have not gone out yet and she wanted to be sure that all of the Commission members can attend. Jerry Russ has made the Commissions in Killingworth aware of the workshop as well.

Mrs. Howard suggested that refreshments be provided for the workshop and asked the Commission if they would be willing to provide some money from the budget for that. The Commission agreed.

Chairman's Report

Erin Howard reported that she has a draft proposal for the zoning regulations rewrite, but does not have it available quite yet for everyone's review. She would like to post the proposal in May for a few weeks so that interviews can be done and someone can be hired in June. She would like to evaluate the current regulations about whether they are conforming with the Connecticut statutory legislation, making sure they are consistent with the goals of the Plan of Conservation and Development, looking at new zoning techniques and making the regulations more comprehensive, but readable and user-friendly. One of the major things she'd like to do is push a lot of things to the ZEO and Town Planner. The goal would be to make the Commission more business-friendly. She would also like to look at the downtown center plan and mixed use as well as Route 66. The other big issue would be a lake zone and business area, looking at the variances that are coming forth.

Jerry Russ commented that he spoke with neighboring towns about expansion of a nonconforming use in a vertical orientation and he thinks Middlefield is the only town that enforces that as creating a more nonconforming use. Applications for that have been rejected in the past. Jay Brown felt that that is making the nonconformity worse and Kevin Boyle felt that lake views could be impacted by that. Geoff Colegrove explained that some towns have different height restrictions in different zones. Discussion continued about nonconformance issues and whether variances should be necessary.

Erin Howard spoke about what ZBA does and felt that there had to be a legal hardship for a variance to be granted. Jay Brown felt that the hardship is easy because a lot of the homes predate zoning. Jan Wojas felt that problem started when cottages started becoming year-round homes. Mrs. Howard hopes to find a way to design regulations that supports consistent growth within the neighborhood that doesn't impact scenic views, etc. Scott Wheeler stated that the Commission has tried that before and Attorney Branse had advised them they would be sued and there's nothing that can be done, but Mrs. Howard didn't agree.

Erin Howard also stated that they have received a bond reduction for Ross Farms and would like to put it on the agenda for the next meeting. Geoff Colegrove explained that there is a surety bond, so he didn't feel it would be a problem to hold it off until the next meeting. Jerry Russ felt that releasing a partial bond is not uncommon.

Kevin Boyle stated that the developer had promised the Commission radius concrete curbs and the bond shouldn't be the value of the work, but should be double the value of the punch list. Mrs. Howard asked Mr. Colegrove and Mr. Russ to report back on this item at the next meeting.

Miscellaneous

None.

Approval of Minutes - March 19, 2018 Meeting

Scott Wheeler made a motion, seconded by Kevin Boyle, to approve the minutes from the March 19, 2018 meeting, as submitted. Motion carried, with Jay Brown abstaining.

Adjournment

A motion was made by Scott Wheeler, seconded by Kevin Boyle, to adjourn the meeting. Motion carried unanimously. The meeting was adjourned at 8:13 pm.

Respectfully submitted,

Debi Waz

Debi Waz
Alwaz First