

PLANNING & ZONING COMMISSION
TOLLAND, CONNECTICUT
REGULAR MEETING MINUTES OF APRIL 12, 2010

MEMBERS PRESENT: Michael Cardin, Chair
Sue Errickson, Secretary
Dave Barrow, Regular
John Hughes, Alternate

MEMBERS ABSENT: Marilee Beebe-Kostrun, Vice Chair
Jack Scavone, Regular
Benjamin Stanford, Alternate

OTHERS PRESENT: Linda Farmer, Director of Planning & Community Development
Applicants, Public

1. **Call to Order.** Michael Cardin, Chair called the meeting to order at 7:30p.m. in Council Chambers.
2. **Public Comment.** Constance Chambers of 129 Mountain Spring Road said the Burgundy Hill Quarry item was not on the March 8, 2010 agenda. She said the PZC did not do a 2/3 vote to add the item to the agenda. She said she has brought the requirement to do this some years ago to the PZC's attention. Mr. Cardin said his agenda has the Burgundy Hill item on it. Ms. Farmer noted that the agenda was amended to add the Burgundy Hill item, and Ms. Chambers did not have the amended agenda in hand. Ms. Farmer said the amended agenda was filed in accordance with Freedom of Information requirements. Ms. Chambers said in any case her concern was with the motion made after discussion of the quarry item which suggested that the permit to extend quarry operations for another year had been granted without public input. Mr. Cardin explained that the essence of the discussion on March 8 centered around a blasting permit Mr. Smallwood was trying to obtain. A date was sent for an annual review of the quarrying operation. Ms. Chambers expressed her relief and said she was pleased the Board held Mr. Smallwood to the conditions of the permit requiring water testing. She confirmed with Ms. Farmer that Mr. Smallwood is aware he has not been granted an extension on his permit. Ms. Farmer said for the extension, a Public Hearing has to be opened and neighbors within 500' of the quarry will be notified by Mr. Smallwood.

3. **Public Hearing(s)**

- 3.1 **P&Z App. #799 – 174 Merrow Road LLC** – Special Permit request to allow a second freestanding sign 32 sq. ft. in size. Location: 174 Merrow Road. Mr. Cardin seated John Hughes for Jack Scavone. Dave Barrow/John Hughes motion to open the Public Hearings Motion was unanimously approved. Ms. Errickson read the legal notices for all three Public Hearings.

Mr. Cardin reviewed the items in their packets. He said they have a map of the property. Ms. Farmer said this is a conceptual plan supplied by the applicant. Mr. Cardin asked the

applicant, Rob Arute for the date of the map. Mr. Arute said it is dated March 16, 2010. Ms. Errickson also read the April 8, 2010 memo from Linda Farmer to Michael Cardin.

Commenting on her memo, Ms. Farmer said she looked at the signs on the property again today, and there are only two banners, but also a wintry mix sign along the Route 195 side. She said sections of the zoning regulations acknowledge access management and traffic control would require extra signage. She noted, however, under Section 170-117 F.3 of the Zoning Regulations that the lot in question has frontage on only one public street and so there is a question of whether Mr. Arute could have the additional signage.

Rob Arute of 174 Merrow Road, the applicant, said he has no intention of lighting the sign at this point. He said it would be uneconomical and there is sufficient lighting in the parking area. He said the 20' setback requirement might be a good issue to bring up in the signage workshop and he would welcome the PZC considering reducing the required offset. He said regarding the representation that the sign will be similar to the sign on Route 195, he understood this to mean that it was similar in appearance. He acknowledged that at 20 sq. feet, the sign on Route 195 is smaller than the 32 sq. foot second sign he is requesting. He would ideally like to divide the sign into 4 placards as directory information.

Ms. Farmer said that freestanding signs have a certain level of site review required. She said the Commission could ask how the proposed sign might look. Mr. Cardin said it is important to note that directory signs have a lot different regulations tied to them. He said it is important that they consider what is being proposed to them today.

Ms. Farmer said the Design Advisory Board looks at freestanding signs and can offer their input. They next meet on May 6, 2010. She said she is looking for some direction from the PZC about how they should address this situation when signs are not visible from a public road.

Mr. Arute said he wants to meet all the other signage regulations and had not entertained asking the commission for any variances. The offsets, he said, are 20' from the property line and that the 20' setback might be on the edge of their parking lot. He said he understands their obligation and could put the sign on an island if need be.

Ms. Farmer noted that there is also a separate issue from the sign request. She said that any new business needs to file for a change of use or occupancy and needs to be reviewed by the fire marshal, sanitarian, building official, and zoning officer. She said there is a new tenant in this building that has a hair/nail salon, and this requires a special permit. Mr. Arute said he understood it to be a nail salon, but Ms. Farmer had been out to meet the new tenant and she was cutting a patron's hair. Mr. Cardin advised Mr. Arute to have the tenant contact Ms. Farmer in her office first thing tomorrow morning to remedy those issues.

Moving back to the signage issue, Ms. Farmer asked Mr. Arute if it was his intention to encourage tenants to use the Fieldstone Commons entrance instead of Route 195. Mr. Arute said people already do use the Fieldstone Commons entrance cutting across the gravel. Mr. Cardin asked if this might be a public safety issue. Ms. Farmer said she is not sure there is any public safety remedy but could talk to those personnel about a solution.

She said the State D.O.T. was in favor of a right in, right out entrance but they could not use their budget to make any compensation for it. She said the Town of Tolland tried to achieve this ideal with incentives, and that the right in, right out was considered a safety improvement along Route 195. Mr. Arute said the D.O.T. did not want to do an island.

Mr. Cardin asked if parking has always been a problem. Mr. Arute said it was not. Mr. Cardin asked when the problem manifested itself. He said Mr. Arute had to have been aware of this issue when he acquired the property. Ms. Farmer noted that the engineer's drawing shows the applicant would be able to have more square footage if he allows access along the back of the property. Mr. Arute said he had an appraisal done which determined that if he put access across the back of the property, it would provide a substantial negative impact on his property. He said he has had multiple inquiries but a stumbling block is that the size of the property is very restrictive on what can go into that space. He said interest in the property has always focused on what could happen about the back of the property and how that will impact the space they can build on.

Ms. Farmer noted that the back area is not developable space. She said it could be just grass with no bonus or a drive with a bonus. Mr. Cardin said a goal of the Plan of Conservation and Development is to have connectivity between commercial properties. He said the PZC gave clear guidelines about what they are looking for. He said in an ideal plan, there would be two 16 sq. foot signs for Mr. Arute's property at each end of the back driveway.

Mr. Arute said the dilemma on his end is whether he should develop a site plan. He said they have not committed themselves to doing that to the property yet. He said they can either sell the property or come before the Commission and develop it themselves. He said the possibility of having additional space coming off the back is not a positive. Ms. Farmer said that assumption is not accurate because the land is not developable.

Ms. Farmer said she met with Greg Nanni the landlord of the tenants at Fieldstone Commons and he considers the prospect of shared parking desirable but the terms of his leases require that there are no competing businesses allowed. Mr. Arute said he has gotten interest from another bank but he would not be able to allow another bank if there was shared parking. He said he has been trying to market the space on its positive attributes such as the fact that it has public sewers.

Mr. Cardin asked Mr. Arute if prospective buyers think the back area is developable. He said, if so, Mr. Arute should clear the air with them that it is not. He said the appraiser who determined the back drive would be a negative should be made to understand that from an engineering standpoint, that the land back there is not developable. Ms. Farmer said it would be helpful if Mr. Arute would get her a copy of the appraisal that was done so she could share it with PZC members. Mr. Cardin asked Ms. Farmer to send a copy of the drawing to the Design Advisory Board for their review.

Ms. Errickson asked Mr. Arute how tall the sign is in total. He said it would be about 6' tall overall with some greenery underneath for landscaping. She also asked for the dimensions of the 20 sq. ft. sign. Mr. Arute said it is 8' x 2-1/2'. He said he included for them a 2-scale picture from the drive lane of Fieldstone Commons.

Ms. Farmer said she believes the request for the sign complies with the intent of the regulations but not the actual wording. She said the regulations may need to be clarified. She also said that changes to regulations in the Gateway Design District do not require sending notification to CRCOG.

Mr. Cardin asked Mr. Arute if he could reshoot the street photo sign where it belongs. Mr. Arute said he could.

Mr. Cardin said he would like to continue this Public Hearing until after they hear input from the Design Advisory Board. He said he is a little uncomfortable changing the regulations in the middle of a Public Hearing. Mr. Arute said his situation is unique in that there are few situations in town where there is an actual travel lane in a parking area. Ms. Farmer noted that Meetinghouse Commons and Goosebury Corners have a similar situation.

Ms. Errickson asked Mr. Arute how bad the traffic is now at 174 Merrow Road. Mr. Arute said that people traveling down 195 from the direction of UConn toward the traffic light will sometimes turn at the light and come in the back entrance. He said people are using the driveway they put in. Mr. Barrow asked what other businesses are in his building besides the salon. Mr. Arute said that Ray Crosson has his building company and there is also a real estate office and a tax accountant. He said the tax accountant and real estate agent tend to see people by appointment, so there is generally not more than three or four cars there at a time. Mr. Barrow asked Mr. Arute why he would want to put a sign there at this point if there are only a few businesses. Mr. Arute said he wants to open up the space by taking the real estate and building companies out of there. Another real estate company and some insurance companies are interested in leasing there.

Mr. Barrow had suggested including space for a directory sign in what he shows the Design Advisory Board. Mr. Cardin said, however, that if Mr. Arute went that route, the size of the whole sign would have to be smaller. Ms. Errickson said that would also be a different design than the sign on Route 195. Ms. Farmer asked Mr. Arute if he contemplated doing individual business fascia signs in a multi-tenant area. Mr. Arute said at this point he is telling tenants to address this issue themselves. Ms. Farmer suggested that the PZC also address her determination that retail goods and services are a different use than tax accountants and insurance offices. She said the tenant at the salon will need to come into the Planning office for a special permit for retail goods and services. She also suggested it would be more economical for the property owner if he considered doing multi-unit retail rather than coming in for one business at a time.

Mr. Arute said that one situation for them is that the salon is on a month to month lease, so the issue with them may be a non-issue. Mr. Cardin asked if the tax accountant would be a retail goods and service. Ms. Farmer said tax accountants are generally considered an office use.

Sue Errickson/Dave Barrow motion to continue the Public Hearing to May 10, 2010.

Mr. Cardin asked Mr. Arute to provide a copy of the appraisal on his property to Ms. Farmer. Mr. Arute asked what this request had to do with signage. Mr. Cardin said Mr. Arute had expressed uncertainty about where the Commission was headed and if the

appraisal report is saying something different than the expanded connectivity and impervious coverage being beneficial, it would be helpful. Mr. Arute said he does not see the connection between a desire to have an access road across the back of his property and his desire to have a sign to the existing second entrance. He said he does not see how 117-117 F.4 applies to his sign request, as he sees that only 170-117 F3 applies. Ms. Farmer said she is questioning if either one of the regulations applies to Mr. Arute's request. She said 117-117 F4 does not apply because there is full access to a public street, however, 117-117 F3 might not apply because the lot does not have frontage and access on two public streets.

A vote was taken on the motion, and it was unanimously approved.

- 3.2 **P&Z App. #798 – Tolland Planning & Zoning Commission** – Proposed Zoning Regulation revisions to change definition for Restaurants and to add regulations for Retail/Food Serving Establishments. Ms. Errickson read the April 8, 2010 memo from Linda Farmer to Michael Cardin. She read the CRCOG report on Zoning Referral Z-2010-14.

Mr. Barrow said he agrees with the statement from the Economic Development Commission. He said if a restaurant had two picnic tables outside, that outdoor seating could easily exceed the indoor seating. Ms. Errickson agreed, saying she would like to encourage more outdoor seating. Ms. Farmer asked if there is a tipping point at which the amount of outdoor seating triggers coming before the PZC for another site plan review. She said presently it is at the Planning Office's discretion. Mr. Barrow said there might always be someone who would want to push the limit. The wording was reworked on the Proposed Zoning Regulation Revisions, dated April 12, 2010. Under "RETAIL FOOD/SERVING ESTABLISHMENT" the first sentence was changed to read: *A business that, primarily or incidentally, sells both packaged and prepared foods and beverages primarily for consumption off the premises, but which may have seating for on-site consumption for up to ten (10) patrons inside and twenty (20) patrons outside.* Also the following sentence was removed: *Outside seating shall be allowed provided the number of outside seats does not exceed the maximum number of inside seats allowed.*

Sue Errickson/Dave Barrow motion to close the Public Hearing for P&Z App. 798. Motion was unanimously approved.

- 3.3 **P&Z App. #800 – Tolland Planning & Zoning Commission** – Zoning Regulation revision to add Elderly Non Profit Housing Regulations to the Village Center Zone. Ms. Errickson read an April 8, 2010 memo from Linda Farmer to Michael Cardin into the record. Mr. Cardin asked if this regulation revision encourages sustainable development. Ms. Farmer said it does. Sue Errickson/John Hughes motion to close the Public Hearing for P&Z App. #800. Motion was unanimously approved.

4. **Action on Public Hearing(s)**

- 4.1 **P&Z App. #799 – 174 Merrow Road LLC** – Special Permit request to allow a second freestanding sign 32 sq. ft. in size. Location: 174 Merrow Road. Commission to take

action on April 12, 2010 Public Hearing item. This item was continued previously to May 10, 2010.

4.2 **P&Z App. #798 – Tolland Planning & Zoning Commission** – Proposed Zoning Regulation revisions to change definition for Restaurants and to add regulations for Retail/Food Serving Establishments. Commission to take action on April 12, 2010 Public Hearing item. Sue Errickson/Dave Barrow motion to approve the proposed zoning regulations revisions as amended, effective April 15, 2010. Motion was unanimously approved.

4.3 **P&Z App. #800 – Tolland Planning & Zoning Commission** – Zoning regulation revision to add Elderly Non Profit Housing Regulations to the Village Center Zone. Commission to take action on April 12, 2010 Public Hearing item. Sue Errickson/Dave Barrow motion to approve the zoning regulation revision revised March 22, 2010, effective April 15, 2010. Mr. Hughes confirmed there will be ample review of the architecture and other features of the housing. Motion was unanimously approved.

5. **Other Agenda Items**

5.1 **P&Z App. #797 – Wm. F., Jr., & Russell S. Welz** – Four (4) lot Subdivision request to create three (3) new building lots. Location: southwest corner of Hunter/Bakos Roads intersection. This item was tabled as it was determined the applicant would require four concurring votes and if Mr. Cardin recused himself there would not be sufficient members present to vote.

5.2 **Resolution** – Endorse resolution for submission of DEP Open Space Grant for the 83.3 acre Luce Property. Ms. Errickson read the Resolution for the 83.3 acre Luce Property. Dave Barrow/Sue Errickson motion to endorse the resolution as written. Motion was unanimously approved.

5.3 **P&Z App. #801 – Carolyn A. Taft** – Special Permit/Site Plan request to operate a Dog Grooming facility at 576 Old Post Road. Commission to set Public Hearing date. Sue Errickson/Dave Barrow motion to set a Public Hearing date for April 26, 2010. Motion was unanimously approved.

6. **Approval of Minutes** – Approve minutes of March 22, 2010 Regular Meeting and April 5, 2010 Special Meeting Minutes.

Sue Errickson/Dave Barrow motion to approve the minutes of the March 22, 2010 meeting. Mr. Cardin asked that the minutes be revised under Item 5.3 to reflect that he had asked Linda Farmer to prepare documentation on the history of connectivity, development and signage on the property, which they received in this packet. A vote was taken to approve the minutes as amended. Motion was unanimously approved.

Sue Errickson/Dave Barrow motion to approve the minutes of the April 5, 2010 meeting. Ms. Errickson asked that the minutes be revised to reflect the date of the CRCOG presentation, which was March 15, 2010. A vote was taken to approve the minutes as amended. Motion was unanimously approved.

7. **Activities & Updates** – Mr. Cardin noted that in the list provided by Ms. Farmer there has been a substantial increase in the number of permits taken out. Ms. Farmer said \$50K has been added to the town budget, which targets \$5K for town staff to attend out-of-state training and approval to fill the vacant secretarial position in her office with a full-time person.

8. **Town Staff Comments**

- 8.1 Zoning questions – Regulation of outdoor DVD rental machines. Mr. Barrow asked how they can regulate outdoor DVD machines but not soda machines. Mr. Cardin said he would prefer to encourage business owners to install these machines inside their businesses. Ms. Farmer said it is hard to know where to draw the line. She said they put substantial effort into addressing lighting as well as the appearance of facades, but then the appearance is further affected when they must deal with outdoor issues like the Rhino propane storage and DVD machines with flashing lights. Mr. Hughes said this could flow over into regulating newspaper dispensers. Dave Barrow added ice machines to the list. Ms. Errickson noted that the more a business owner can push sales to products they store outside their business, the more they can put inside. Mr. Hughes said it makes sense to require business owners to keep DVD machines inside. Ms. Farmer said they need at a minimum some guidelines to go by. She said the issues before them are the lighting from these machines and the space they take up on a sidewalk that takes away from a sidewalk's function. Mr. Cardin asked Ms. Farmer to check out what other towns do on her Listserv. In the meantime, business owners will need to keep DVD machines inside their buildings.

- 8.2 Page Property, 431 Gehring Road – Update. Ms. Farmer said the Pages were fined \$150 on March 29, 2010 and they have thirty days by law to either pay the fine or appeal it. She provided a picture of the front of the property as of April 12, 2010. Mr. Cardin asked Ms. Farmer to provide a similar view snapshot on how it looks on April 26th.

9. **Announcements – Upcoming Meetings** – Mr. Cardin asked when Ms. Samokar and Mr. Chalder of Planimetrics will be meeting with property owners and business owners in the Tolland Village Area. Ms. Farmer said this will be on May 5th and 6th.

10. **Reading of Correspondence** – Ms. Errickson read a March 26, 2010 letter from Tomlin, LLC, owners of Belvedere Ridge, requesting an informal discussion with the PZC about the progress of their development. The PZC discussed putting this on the agenda for May 10, 2010.

11. **Communications and Petitions from Commission Members** – Mr. Cardin confirmed that the Public Hearing for the Burgundy Hill Quarry will be on May 10. He said this will be generated by the PZC. Ms. Farmer asked if they will discuss the quarry extension at this time and Mr. Cardin said they will. Mr. Barrow asked if he can get some more history on the

quarry and their extensions. Ms. Farmer said she will put together a timeline for the PZC.. Mr. Barrow also requested that he receive copies of previous lab reports on the water testing.

12. **Public Participation** – Stu Danforth of 484 Mile Hill Road asked for clarification on Zoning Regulation 19-13-B21, which he read to the Board. Mr. Danforth said that Ms. Farmer previously said the PZC can only address the Page property having business activity on residential property, but this regulation refers to the character and condition of any Tolland property. Mr. Cardin said the Town Council sets the codes Mr. Danforth is referring to in the regulation and that he needs to address the Town Council on this. Ms. Errickson agreed that the Town Council created this ordinance, and that the Danforths would need to speak to the Council. Ms. Farmer said the Health Department did visit the site, but that they did not go onto the property because they did not have the authority to do so. Mr. Danforth submitted a photograph of the Page property on Gehring Road that was taken from off the property at Cedar Swamp Road. Mr. Barrow suggested the Danforths visit the Town Council on their Saturday hours they keep at the library, usually around 2:00p.m. or 3:00p.m. He said this is a good time for a public visit and, if need be, Fred Daniels, might put them on an upcoming agenda. Mr. Danforth also said that Mr. Lowrey had told him he would be sending a letter to the PZC on the condition of the body of water on the Page property.

Barbara Danforth of 484 Mile Hill Road said she has been in touch with Frank Gagliardo of the DEP and they talked for about an hour on the phone. She said he has copies of all the correspondence regarding this matter. She said they reviewed the information over the phone including the December 21, 2009 Cease and Desist order to the Pages from Mr. Lowrey and the letter also dated December 21, 2009 about the need to remove vehicles from the property. She said nothing has been done about the vehicles. Ms. Farmer said about eight cars have been removed from the property, but acknowledged there are still more there. Ms. Danforth said the PZC can expect another letter to be sent April 16 or 17 from the DEP. Ms. Danforth also expressed her displeasure with the Page property item being put near the end of the meeting agendas.

13. **Adjournment** – Dave Barrow/Sue Errickson motion to adjourn the meeting and pay the clerk at 9:47p.m. Motion was unanimously approved.

Respectfully submitted,

Annie Gentile
Clerk