

PLANNING & ZONING COMMISSION  
TOLLAND, CONNECTICUT  
REGULAR MEETING MINUTES OF FEBRUARY 8, 2010

MEMBERS PRESENT: Michael Cardin, Chair  
Marilee Beebe-Kostrun, Vice Chair  
Sue Errickson, Secretary  
Jack Scavone, Regular  
David Barrow, Regular  
John Hughes, Alternate  
Benjamin Stanford, Alternate

OTHERS PRESENT: Steve Lowrey, Wetlands Agent and Zoning Enforcement Officer  
Applicants and their representatives

1. **Call to Order.** Michael Cardin, Chair called the meeting to order at 7:32p.m. in Council Chambers.
2. **Public Comment.** None.

3. **Public Hearing(s):**

- 3.1 **P&Z App. #698 – Glen & Heidi Norton Boggini** – Resubdivision request to create one new building lot and revise two existing lots. Location: easterly side of Grant Hill Road, 350' north of Coventry Town Line.

Beebe-Kostrun/Barrow motion to open the Public Hearing. Motion was unanimously approved. Ms. Errickson read the legal notice. Mr. Lowrey provided an overview. He said that the Boggini's bought the land being discussed in 2003 and subdivided off two lots. He said Glen Boggini had planned to eventually have another frontage lot and the minimum lot size in the interim went up to two acres. For this reason he had to acquire a little more land from the rear lot to meet the required lot sizes. Mr. Lowrey said that Parcel 2 being subdivided had 400' of frontage from the beginning, so with the proposed revision both front lots will have 200' of frontage.

Ms. Errickson read the February 4, 2010 memo from Johanna Schmidt, Sanitarian to Mr. Cardin. Mark Peterson of Gardner and Peterson Associates, representing the Boggini's, submitted proof of notifications to abutters and reviewed the plan. He said Lot 1 is more than 3 acres and has an existing house and Lot 2 has a 35' access strip to the rear property and also has a house. He showed in the drawing how they are requesting that they be allowed to adjust the lot lines to make a small land swap between the owners to create a third building lot. Mr. Peterson showed the buildable square of 19,000 square feet and said the well on the new lot will be in front with the septic in back. He noted that the Health Department has approved plans for all three lots.

Mr. Lowrey noted that there are some wetlands on Lot 2, but they have nothing to do with the property being subdivided. There was no comment from the public. Scavone/Errickson motion to close the Public Hearing. Motion was unanimously approved.

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

- 4.1 **P&Z App. #698 – Glen & Heidi Norton Boggini** – Resubdivision request to create one new building lot and revise two existing lots. Location: easterly side of Grant Hill Road, 350’ north of Coventry Town Line. Take action on February 8, 2010 Public Hearing item.

Errickson/Scavone motion to approve P&Z App. #698 for a resubdivision request to create one new building lot and revise two existing lots on the easterly side of Grant Hill Road, maps dated December 31, 2009 with revision January 14, 2010. Motion was unanimously approved.

#### **5. Other Agenda Items**

- 5.1 Discussion concerning “restaurant” type use at 206 Merrow Road. Mr. Lowrey recapped the discussion to date. He said Sami Khan, owner of the Citgo Express, came in with a floor plan to include a counter with five seats for coffee and/or lunch. He also provided a basic menu. Mr. Lowrey said based on their existing regulations, Ms. Farmer was unsure if this proposal would constitute a restaurant, which would then require a Public Hearing and possibly additional parking. Mr. Lowrey explained that restaurants require more parking per square footage than convenience stores because convenience stores have a lot more quick in and out traffic. Looking at the definitions in the regulations, Mr. Lowrey said strictly interpreted, this proposal would be a restaurant.

Mr. Khan from 206 Merrow Road provided copies of a sketch which shows what he intends for his business. He said he would like to provide TV service and wireless internet and a place for people to get a coffee or a quick bite to eat. He said he would expect to put in a couple of tall tables with bar stools. Ms. Errickson asked if the bathroom he has is unisex and if it would be open to the public. Mr. Khan said yes to both questions. Mr. Barrow asked how many parking spaces the business currently has. Mr. Khan said there are 18 spaces. Ms. Errickson asked if any of the parking spaces are handicapped spaces. Mr. Khan said there are none as of yet. Mr. Cardin said he recollects that the store has seasonal outside seating at picnic tables for ice cream. Mr. Lowrey said he does have picnic tables outside and that the definition in their regulations for a restaurant states that if 50 percent or more of customer seating is located inside, then it constitutes a restaurant.

Ms. Beebe-Kostrun asked if there is any public health requirement. Mr. Lowrey said there is not. He said the only place seating is an issue is with the public bathroom. If there are 14 or more seats, then the business must provide a public bathroom that must be ADA accessible. He said this would be a matter for the Building Official and he believes the

Sanitarian has looked at this. Mr. Khan said if it is an issue, he would be willing to take out the stools and just leave the tables.

Ms. Errickson asked what the parking requirement would be for a restaurant. Mr. Lowrey said the minimum would be six and maximum would be fourteen parking spaces per 1,000 square feet. Mr. Lowrey said in the Gateway Design District, if this constitutes a restaurant, then it would require a special permit and they would need to hold a Public Hearing.

Mr. Hughes said he feels this change would be a good use of the space. Mr. Scavone said it appears nothing significant would be changed, and the only reason they are having this discussion is because the owner wants to add a few stools. Mr. Cardin said he is inclined to ask the Planning Office to work with the applicant to address his needs outside the special permitting process. He said he is not sure that this request reaches the threshold of a restaurant.

Ms. Beebe-Kostrun said they may want to clarify the language of what constitutes a restaurant in their regulations. She said she is unsure if their definition is sufficient for what they want it to be, and the way it is written now, anyone could add a bunch of picnic tables to seat sixty people and then have tables that seat a lot of people but less than sixty inside therefore still not fall into their definition of a restaurant. Mr. Cardin agreed that they should review the definition at a future point in time.

Ms. Errickson noted that this is a limited menu and asked at what point the menu might constitute a restaurant. Mr. Lowrey noted that there is a difference in the public health code between heating up food and cooking it. There was some discussion about intensity of food preparation and if, for example, Bagels and More might constitute a restaurant. There was a general consensus that this proposal does not reach the threshold of a restaurant and to have Mr. Khan work with town staff outside the special permitting process.

5.2 **8-24 Report – Sewer Extension** – Discuss and issue report to Town Council on Route 195 Sewer Extension. Mr. Lowrey provided a map for review. He said the intention is to extend the sewers from Goose Lane to Anthony Road and they have an outstanding and still valid Inland Wetlands permit. The Town has gotten a STEAP grant. Mr. Cardin said there were discussions in the past to develop this portion of the road into a Technology Zone and he understood it was originally going to be privately funded, but that has since fallen through. Mr. Barrow said with the change in the economy there is a feeling that the project might be more doable as contractors are coming in with lower bids. Ms. Errickson noted that the recommended wastewater management plan for the town from 2004 showed this area as proposed to be sewered. Ms. Beebe-Kostrun noted that the only way the Technology Zone could work was if they sewered the area. Mr. Cardin said extending the sewers in this area would provide the property owners with more options for their properties. Mr. Hughes said he would recommend issuing a favorable 8-24 report to Town Council.

Scavone/Beebe-Kostrun motion to issue a favorable 8-24 report to Town Council on the Route 195 sewer extension, based on the May 2004 recommended wastewater management plan as well as the updated Plan of Conservation and Development. Motion was unanimously approved.

5.3 Update concerning properties on Gehring Road. Mr. Lowrey said they have a verbal agreement with Mr. Paige that he will clean up his mother's property at 431 Gehring Road and then work on the other properties after that. He passed around some pictures showing the property in November and how it looked on February 8, 2010, showing the progress of the cleanup to date.

Mr. Cardin also noted that a Cease and Desist order was issued on December 21 and that the property owner was given ten days to comply with the order or be subject to possible legal action. Mr. Cardin said they have a verbal agreement with the property owner to clean up the property in thirty days at 431 Gehring Road. Mr. Lowrey said he knows they have quite a bit of work to do and doesn't expect it to be done in ten days. Mr. Cardin said it is evident that very little progress has been made. Mr. Lowrey said several of the forms appear to be gone.

Mr. Barrow asked if this is an unauthorized business use of the property. Mr. Lowrey said it is. Mr. Barrow said he has an issue with this as the forms and equipment are not likely being taxed. Mr. Cardin said this is not their purview. Mr. Barrow suggested another town agency should address the tax issue. Mr. Scavone asked if they have a blight ordinance in town. Mr. Lowrey said they do not. Mr. Barrow asked if there are any wetlands on this property. Mr. Lowrey said there are no wetlands at the 431 Gehring Road property, but there are at the Cedar Swamp property. Mr. Barrow said he is concerned about this as the back of the property is worse than the front. Mr. Lowrey said that business related material is being stored on the property and he is disappointed more cleanup has not been done in a month.

Ms. Beebe-Kostrun asked what would be their next step. She asked if they are not in compliance with the Cease and Desist right now. Mr. Lowrey said until it is all cleaned up, they are not in compliance. Mr. Lowrey said he would expect that the next step would be to talk with Ms. Farmer and probably put more pressure on the property owner to cleanup.

Mr. Barrow asked if the Department of Environmental Protection has been notified. Mr. Lowrey said he called them but he has not yet lodged an official complaint. Mr. Scavone asked if they had a blight ordinance, could the town then cleanup the property and send the homeowner the bill. Mr. Lowrey said they could not, but they could get a court order for the cleanup. Mr. Cardin said the legal road can be a long, drawn-out process and asked if there were any other methods. Ms. Beebe-Kostrun asked if they have any other zoning avenues. Mr. Lowrey said they could begin fining the property owner for offenses. He said the town could fine the property owner for an unauthorized use, in this case storing commercial material on residential property. He said the fine would be \$150.

Mr. Barrow asked how often this \$150 fine could be levied. Mr. Lowrey said he is unsure, possibly monthly.

Barbara Danforth of Mile Hill Road said she has been in touch with the Town Council and with Attorney Conti. She said the town attorney said he would need to get a letter from the PZC and he could then advise them of legal avenues. She said she feels that this is a serious issue and does not want to have a dump in a residential area. She said she has observed two pickup trucks on the property on Gehring Road filled up with junk at night. The trucks leave and return in the evening. She said she believes the property owner is bringing back the trash from his jobsites and dumping behind his house and his mother's house. She added that this man has been warned and does not appear to care. She asked that they set deadlines and that they require him to bring in dumpsters and fill them up.

Ms. Beebe-Kostrun said there is a possibly valid environmental issue involved and going through the DEP might be a faster route to reconciliation. Ms. Errickson asked if the dumping can be seen from other properties. Mr. Barrow said they could see in from Cedar Swamp Road. Mr. Cardin said he would like the Planning Office to set some bi-weekly benchmarks and if or when they are not met, then they should start the fining process. He said he would prefer that the DEP takes the lead on this.

Ms. Errickson said this might be the best time of year for an official to look in at the property from the back road. Mr. Lowrey said he can see the property from Cedar Swamp but not get specifics about how much dumping is involved back there. Mr. Cardin said he recognizes they have limited staff resources and that if the property owner is not being responsive to Ms. Farmer or Mr. Lowrey, then going through the DEP might be the best route.

Mr. Hughes said a letter from the town attorney on town letterhead might carry more weight than just a verbal conversation. Mr. Cardin said they might be paying their town attorney \$250 to \$350 to write a letter that does not produce results. Mr. Hughes said an attorney's letter might make a person stand up and take notice. Mrs. Danforth said she would recommend they send a letter to the town attorney and let him take it from there. Mr. Cardin said if they send a letter and the property owner does nothing, they have gotten no further. Ms. Beebe-Kostrun said cost is not the over-riding concern; however, they are a small community in a budget crisis and they need to be cognizant of that. She said they use their attorney quite a bit and should be willing to look at various avenues.

Mrs. Danforth said she would recommend sending the letter or fining the property owner each month he is not in compliance. She cited a different situation where a resident was not in compliance, but when they got a letter from the town, they rectified the situation right away. Ms. Beebe-Kostrun said whatever they do, they need to be within the law. She asked Mr. Lowrey if he observed any drums on the property. Mr. Lowrey said there are drums in front of the property; he is unsure if there are any in back. Mr. Barrow said they need to set benchmark dates for various cleanups and then issue fines if they are not met. Mr. Scavone said they should also draw a picture and spell out specifically what needs to be gone by each benchmark date.

Mr. Cardin asked how responsive the homeowner has been. Mr. Lowrey said the property owner always takes his calls. However, Mr. Lowrey said he is disappointed in the amount of follow-through on cleanup. Mr. Cardin asked Mr. Lowrey to send a letter to the DEP to start the formal process. He asked when Ms. Farmer would be back from vacation. Mr. Lowrey said she would return on February 16. Mr. Cardin asked Mr. Lowrey to set up a meeting with the property owner before the end of the week and he will sit in on it. At the meeting they will set deadlines and benchmarks for the cleanup. He asked that they put this item on the February 22, 2010 agenda for an update and to go over the benchmarks that have been set. He also asked Mr. Lowrey to reach out to the town attorney to find out the parameters they are allowed on a schedule of fines. There was a consensus that this was an acceptable action plan.

Ms. Beebe-Kostrun asked Mr. Lowrey that when he talks with the DEP to have them check into the presence of drums and also if any of the vehicles parked all over the property are without pans.

6. **Approval of Minutes** – Approve minutes of January 25, 2010 Meeting Minutes. Barrow/Errickson motion to approve the minutes of the January 25, 2010 regular meeting. There was no discussion. Motion was unanimously approved.

7. **Activities and Updates**

- 7.1 Tolland Village Area – no update

- 7.2 OPM Energy & Conservation Block Grant – no update.

8. **Town Staff Comments**

- 8.1 Discuss potential video guidelines - Mr. Cardin asked that everyone review this for a February 22 action item. Mr. Barrow said the paperwork does not say who can video and he would like to make sure that everyone knows that this is open to anyone to videotape.

- 8.2 Steve Lowrey – Update on Tankerhoosen Management Plan Implementation – Mr. Lowrey said the Inland Wetlands Commission has a meeting with property owners that about the tributaries of the Tankerhoosen at the Lodge on the evening of March 18, 2010. Notices will be going out soon. John Ianni will talk about wetlands and Jim Gorman will discuss how to create attractive buffers. He said there are about 90 property owners, most of whom are residential. There are seven or eight properties where the lawns go all the way to the brook and they want to encourage creating 50' buffers or at least 15' to 20' buffers. Commercial properties will fall under Phase II as they will require some engineering and possibly grant money to fix up the drainage off parking lots.

## **9. Announcements**

9.1 Town Council – Route 195 corridor Study – Public Hearing will be held Tuesday, February 9, at 7:30 p.m.

9.2 Town Council/EDC/Fire Department meeting at 7:00 p.m. on February 11, 2010 at the Fire Training Center. Mr. Cardin said he is planning to attend this meeting.

9.3 Planning & Zoning Commission Workshop – Monday, February 22, 2010 at 7:30 p.m. concerning the POCD Implementation Chapter.

9.4 Tolland Sustainable Community's Forum – March 15, 2010, 7:30 p.m. at Crandall Lodge. Ms. Errickson said this additional meeting will be conducted by CRCOG. She said they gave direction to CRCOG to try to do the forum with more visuals to provide a better idea of what a sustainable community could be.

10. **Reading of Correspondence** – None.

## **11. Communications and Petitions from Commission Members**

Sue Errickson – CRCOG Report. Ms. Errickson said there was no CRCOG meeting this month. However, she attended a workshop with Linda that was led by Randall Errant. She said he is a very dynamic speaker and he's coming out with a new book on Sustainable communities and offered some good points. He suggested towns do a visual preference survey, something Ms. Errickson said she participated in at CRCOG. She said they can then take the survey and make it into a document which helps sell people on sustainability. Some of the suggestions he had is that the further back a business is from the road, the more signage they should be allowed to have. Windows should face the road. Instead of driveways, alleys should go down in back of properties. Outdoor spaces can be done on rooftops and outdoor eating is recommended at restaurants. Big box developments have been proven to generate more traffic accidents. Roundabouts are found to calm traffic.

Mr. Lowrey said someone came into his office who has 10-1/2 acres of undeveloped land, but this is not enough to put it into Open Space. He cannot buy additional land from abutters. He said they might want to consider allowing undeveloped properties of ten acres to be allowed as Open Space. He said the policy as it now stands encourages people with ten-acre lots to sell them for residential development. Ms. Beebe-Kostrun said they have transitioned from traditional assessments to subcontractors who determine how many building lots a piece of property can be developed into. She said it is possible to have a property owner taxed on multiple building lots without really knowing if the land could qualify for that many lots.

Ms. Errickson asked if they might want to possibly revise their regulations to allow three or more acres of undevelopable land as Open Space. Mr. Barrow said allowing for that kind of a change could have a negative impact on the grand list, and any changes they might make should be looked at carefully. Mr. Lowrey clarified that the land in question is simply undeveloped, but could be developed. Ms. Beebe-Kostrun said the philosophy was that we

were incentivizing residential development by taxing surplus land, and she said the topic warrants more exploration.

Mr. Lowrey said someone also came into the office wanting to install large directional signs at Twin Ponds. Mr. Cardin suggested this person be invited to the PZC workshop to be held in March.

Mr. Barrow said he talked to Kevin Bouley, president of the TECDC. Their group has been given the authority by the Town Council to develop a relationship between the town and the University of Connecticut to drive some incubator businesses in town. Mr. Barrow said he would like Mr. Bouley to be able to come in and give them a presentation. He said UConn has run out of space for incubator companies and so this might be an opportune time to revisit potential regulations. Mr. Cardin asked Mr. Barrow to see if Mr. Bouley might be available to talk at their March 8 meeting.

Ms. Beebe-Kostrun said she would like to clarify her comments made during the Gehring Road discussion. She said she is in favor of moving forward, but would caution that they need to be careful about encouraging town staff to try to look into private properties from other people's property.

12. **Public Participation:** None.

13. **Adjournment:** Barrow/Scavone motion to adjourn the meeting and pay the clerk at 9:15 p.m. Motion was unanimously approved.

Respectfully submitted,

Annie Gentile  
Clerk