

PLANNING & ZONING COMMISSION
TOLLAND, CONNECTICUT
REGULAR MEETING MINUTES OF JUNE 28, 2010

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

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

1. **Call to Order.** Michael Cardin, Chair, called the meeting to order at 7:37p.m. in Council Chambers.

2. **Public Comment:** None

3. **Public Hearing(s)**

3.1 **Open Space** – Request for designation as Public Act 490 Open Space. Continued Public Hearing which commenced on June 14, 2010. There were two applications, one from Walter and Erin Moody and a second one from Kevin Trapp. Ms. Farmer said she met with the property owner for the Trapp application and she has learned there is an old non-conforming structure on the parcel. After discussing the application with he, he would like to put 16.93 acres into P.A. 490 Open Space. Regarding the Moody property, the property owners have a barn on their 13.54 acre parcel. They intend to use the property for agricultural and agricultural production use. Ms. Farmer said she was not able to connect with them, but recommends they go with the original application to put 11.539 acres into P.A. 490 Open Space.

Ms. Errickson asked if they should create a policy statement to clarify in the regulations whether an entire parcel, if unimproved, could be put into Open Space, rather than subtracting out a minimum lot size. Presently the minimum lot size for a parcel of land that would have frontage on a street is two acres, and the minimum lot size for a rear lot is five acres. As the regulations stand now, it is unclear whether a property owner with frontage land would need a minimum of 12 acres and a property owner with land that might be developed into a rear lot would need a minimum of 15 acres in order to have a minimum of 10 acres designated as P.A. 490 Open Space. Ms. Farmer said the next time they do regulations revisions, she will propose this.

There were no further comments or questions. Jack Scavone/Marilee Beebe motion to close the Public Hearing. Motion was unanimously approved.

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

- 4.1 **Open Space** – Request for designation as Public Act 490 Open Space. Commission to take action on June 14, 2010 Public Hearing item.

Jack Scavone/Dave Barrow motion to grant applications for PA. 490 Open Space classifications to Kevin Trapp for 16.93 acres at 220 Buff Cap Road, and to Walter and Erin Moody for 11.539 acres at 38 Charter Road. Motion was unanimously approved.

- 4.2 **P&Z App. #441B – Tolland Planning & Zoning Commission** – (Burgundy Hills Associates) – Review conditions attached to February 25, 1991 Special Permit for possible modifications. Location: Midwood Quarry – Mt. Spring and Old Post Roads. Commission to take action on May 10, 2010, May 24, 2010, and June 14, 2010 Public Hearing items.

Mr. Cardin provided a handout which the Commission dated June 28, 2010 that revised proposed changes to the sixteen conditions for discussion. The Commission began at Condition 5, since they reviewed Conditions 1 through 4 at the previous meeting. Mr. Cardin noted that during the Public Hearing there was some strong commentary from the neighborhood about maintaining the entryway to the quarry. He also referred to the June 7 letter from William “Bud” Smallwood about installation of an anti-tracking pad, repairing the pavement and sweeping. Ms. Errickson asked for clarification on where the potholes exist. Mr. Cardin said these are on the entrance driveway.

Kenneth Dash, who said he works with Mr. Smallwood, clarified that the anti-tracking pad starts after the entryway and their intent is to patch the entryway from the street to the pad. Additionally, this entire area from the road to the anti-tracking pad will be resurfaced, he said. He said Herb Holden is currently in the process of doing this. He asked how often the PZC would expect the entryway to be swept. Ms. Beebe said if there continues to be heavy traffic like there is now, it should be done every few hours and that water needs to be used when this is done to keep down dust. Ms. Farmer said there were some concerns expressed about mud formation exacerbating the problem. Ms. Beebe said if they use a sweeper that is made for that type of job, it should handle the problem.

Ms. Farmer asked if they could return to the item listed as Condition 2. She asked when the final grading plan should be submitted. Ms. Errickson asked if the final grading plan is what is submitted before the quarry owner walks away and closes the quarry down. Mr. Cardin suggested a final grading plan should be submitted one year prior to cessation of operations, and there was consensus to change the first sentence in that Condition to: *A final grading plan must be submitted for approval and verified by the town engineer (and/or consultants) one year prior to cessation of operations that would reflect the general guidelines established as noted on the Cross Section Plan, dated 3-1-07, revised to 3-26-07 which noted a Typical Terrace Detail of:* (The bullet items remain the same).

Ms. Beebe said that in Item 1 they should have a trigger for when the annual map needs to be submitted. Ms. Farmer said there are two reasons for asking for a map submission—to see the topography and to verify that quarrying is staying within the 10-1/2 acre designated area. After some discussion, there was consensus to reword Condition 1 as follows: *The submission of this annual map requirement can be waived if less than 25,000 yards of stone or stone related products has been blasted and/or excavated in the calendar year or exceeds 50,000 yards of stone or stone related material since the last map submission. The*

submission of documentation on material must be provided to the Planning Office upon request of waiver. An updated Erosion and Sedimentation Control Plan shall be submitted as determined by the Wetlands Agent, Town Engineer and Wetlands Commission. The date of renewal is June 23rd.

Mr. Barrow questioned in Condition #6 why the hours of operation changed from 8:00am to 6p.m. to 8:00am to 5:00pm. Mr. Cardin said his suggestion for the change was to try to strike a balance with the neighbors. Mr. Barrow said that from a construction work standpoint, it is not uncommon for the workday to be ten hours or more. Ms. Beebe said the DOT routinely restricts construction on local roadways to 9a.m. to 3:30p.m. Mr. Cardin said there were concerns about early starts and going late, particularly because during the very early and later hours of the day, there would be no one at Town Hall to take a complaint from neighbors.

Mr. Smallwood said he does not feel this change is fairly balanced. Mr. Cardin said they cannot take comments from the public now that the Public Hearing has been closed. Mr. Scavone suggested that the quarry have hours where shutdown is at 5:00p.m., but that allows anyone in the quarry until 5:30p.m. to exit the property. Mr. Smallwood said he does not believe the Commission can arbitrarily change any of the Conditions without the quarry owner's approval. Mr. Cardin disagreed saying the Conditions were adopted in 1991 as part of the permit process and the town attorney assured them they could make changes to the Conditions as needed. Ms. Farmer said the courts determined the quarrying operation was a non-conforming use and the town must allow operations to continue but the courts charged the PZC to determine the area for quarrying and to attach conditions for operation. Mr. Cardin added that they had a minimum of six hours of Public Hearing and now the Commission is in the process of deliberating. Mr. Smallwood said if changes can be made without his approval, then there is no point in his being here this evening and he asked what he can do if he totally disagrees with some of the changes. Mr. Cardin said he expects that neither Mr. Smallwood nor the neighbors will leave completely satisfied with their decisions, but they are trying to work out a compromise. Ms. Beebe and Ms. Farmer said there is an appeal process if he disagrees with the final decisions. Mr. Smallwood left the meeting.

Mr. Scavone recommended hours of operation that allowed for a start no earlier than 7:30p.m. and exiting the quarry no later than 5:30p.m. Mr. Barrow said he feels that cutting operations back from 6pm would be limiting their operations too much. Ms. Errickson said her concern is with the start time, and she would not want a start earlier than 8:00a.m. so as not to run into problems with school buses. She said neighbors have already complained that Mr. Smallwood allows an earlier start than is allowed for in the Conditions. Ms. Beebe said she feels there should be no problem in requiring a later start in a residential zone for a continuous operation. However, if this proves to be an extremely contentious issue, it may not be worth the argument. She suggested leaving the hours as 8a.m. to 6p.m. but updating the Conditions to reflect State regulations on idling trucks. Ms. Farmer said the complaints she receives from neighbors on hours of operation are usually in regard to the starting time at the quarry.

There was agreement to reword the condition on quarry hours of operation to read: *Hours of operation, which may include loading, crushing, operation of equipment, and other related quarry activities, shall be Monday – Friday, 8:00a.m. to 6:00p.m. All trucks shall comply with DEP idling regulations at all times and no trucks shall wait in either access road at any*

time within 250 feet of the Town road, and no equipment shall operate on the site except in the event of an emergency at any time other than the prescribed hours of operation.

It was noted that the revised Conditions list left out current Condition #2, which needed to be added back, and so the June 28, 2010 document needed to be renumbered starting with the Condition on the final grading plan being Condition #3.

Mr. Barrow asked what they would consider is “statistically significant” on the newly renumbered Condition #8 referring to testing private wells. He asked how they would determine parameters. Ms. Beebe asked if there was some way to link this Condition to Gary Robbins’ report. Mr. Barrow said if there is a spike in the readings, how do they know what is the cause? Mr. Scavone agreed saying there are often spikes in readings in the spring when water levels are high, and additional spikes in the summer when water levels are low. Ms. Beebe agreed saying they are not qualified to make these determinations.

Mr. Cardin said this is a continued source of frustration because the Public Hearing revealed that even experts in the field disagree about what readings can mean. Ms. Beebe said it would be worthwhile to continue taking well samples to see if they meet drinking water guidelines. She suggested if any one parameter goes above State standards, then continued sampling should not be waived.

Ms. Farmer said if a reading went above the State action level, then the PZC would in conjunction with the Eastern Highlands Health District seek guidance from DEP. The Commission also discussed if they should continue monitoring surface water. Ms. Errickson said the June memo from Rob Miller, Director of EHHD, suggests that they do. Mr. Scavone and Mr. Barrow agreed to continue doing so if conditions warrant it. There was consensus to reword Condition 8 as follows: *The applicant shall test up to four private well samplings to be coordinated with the Planning Office for pre and post blast inspections. These should be evaluated and continued as deemed appropriate by the Planning & Zoning Commission on a yearly basis. If the private well testing is found to produce analytical results that do not meet or exceed State action levels for any constituent identified in the DEP Guidance Document for Evaluating Potential Hydrogeologic Development Concerns, the Planning and Zoning Commission may waive this requirement for the next permit year. Surface and groundwater monitoring may be required by the Planning & Zoning Commission if deemed necessary.*

There was consensus to leave Condition 9 regarding aboveground fuel tanks unchanged. Condition 10 was updated with the suggested wording to reflect current technical data: *All blasting undertaken shall comply with applicable state regulations and codes and shall further comply with the recommendation of the Guidance Document for Evaluating Potential Hydrogeologic concerns, from the Connecticut Department of Environmental Protection, and Gary Robbins, draft report, dated November 6, 2008.*

There was consensus to leave Condition 11 unchanged and to remove Condition 12 in its entirety. This would require renumbering going forward so that Condition 12 refers to all fixed and moveable equipment being required to be operated and maintained in such a way as to minimize noise. There was consensus for the next condition, Condition 13 regarding a Hold Harmless Agreement and Certificate of Insurance to remain as noted on Mr. Cardin’s June 28, 2010 memo.

There was consensus to remove the reference to Section 170.80.L.5 which was in parentheses from Condition 14 (renumbered). There was also consensus to add the recommended new Condition 15, of which the wording was recommended by the town attorney: *Failure by the permit holder to comply with any of the above mentioned conditions may result in the town seeking a temporary injunction for remedy.*

Ms. Errickson said it would not hurt to continue to suggest that trucks exiting the quarry turn right as it would help to move them to State roads more quickly. Mr. Cardin said the town attorney has advised them that they cannot restrict truck traffic on public roads. Mr. Scavone said he feels those living on the right (north) side of the quarry should not have to bear the burden of all the truck traffic. He added that if they cannot legally enforce the rule, then they should not bother with it. He said garbage trucks, snow plows and school buses are also large vehicles, but they are not restricted. Mr. Barrow concurred. Ms. Beebe said she is not opposed to requesting trucks turn right, but it won't be meaningful and truck drivers will do what they want to do. Ms. Farmer said they would want to make sure that all Conditions for the quarry are enforceable. After further discussion, there was consensus to leave the "no left turn" request out of the Conditions.

The Commission discussed Condition 5 and agreed to the following wording: *The final Soil Erosion and Sedimentation Control Plan shall be updated as required by the Wetlands Agent, Town Engineer and Wetlands Commission. The applicant shall determine the need to secure a DEP general permit for the discharge of stormwater by October 1, 2010. Copies of the general permit application and all appended documents shall be supplied to the Town Planning Office. The sedimentation basin should continue to be inspected on a quarterly basis by the Wetlands Agent. At the time of the yearly renewal, the Wetlands Agent determines the sedimentation basin to be stable, this provision may be waived by the Planning and Zoning Commission.*

Marilee Beebe /Dave Barrow motion to accept the changes to the Conditions attached to the February 25, 1991 Special Permit as outlined in the document of June 14, 2010 and finalized June 28, 2010. Motion was unanimously approved.

5. Other Agenda Items

- 5.1 **Steve Daiello** – Conceptual discussion concerning a potential land swap of subdivision open space and private land. Location: 224 Baxter Street and Josiah subdivision open space. Ms. Errickson read the May 11, 2010 letter to Town Manager Steve Werbner from Steve and Sandra Daiello.

Steve Daiello was present at the meeting and he said he would like to install a driveway that leads out to Josiah Lane simply because he has young children and he is concerned about the safety of his children riding their bikes on Baxter Street, which is a very busy road. He provided a visual handout that gives an overhead view of the property. His request was to swap .20 acres of his land from the back portion of his lot to get .20 acres from the town's open space. Ms. Beeben asked if this request would compromise the Daiello's lot. Ms. Farmer said it would not. Ms. Beebe also noted that when the subdivision was originally approved, the area was finessed to handle runoff. Mr. Daiello said the town has since fixed the runoff problem with the installation of culverts. He said this is basically a very small request and he welcomed Commission members to visit the site.

Ms. Farmer explained that this request would be a resubdivision as defined in State statutes and would require a public hearing. There would be some substantial costs involved for the Daiellos for the land swap and surveying, and for this reason Ms. Farmer had suggested he come before the PZC for input before he spends the money for an application. She said this would also need to go before the Town Council because of the land swap issue. The land he is offering to swap would be contiguous with existing open space.

Ms. Beebe suggested it would be much easier and less costly to put in a trail through the open space as opposed to a gravel driveway. It was uncertain whose jurisdiction adding a trail would fall under, however there was consensus that the creation of a trail would involve minor brush cutting and just riding a bike through the area several times to flatten the area out. Mr. Daiello said he would expect they would need to bring in about two yards of fill to create a trail. Ms. Farmer said if he wanted to bring in fill, he should first run that idea by the Town Manager. Ms. Farmer said that either she or Steve Lowrey could visit the site to see what work might need to be done. Mr. Daiello said he would call her office tomorrow.

5.2 **P&Z App. #802 – Luba K. Williams** – Three (3) lot resubdivision request to create 2 new building lots. Location: northerly side of Kozley Road, 200’ from the intersection with Midland Drive. Commission to set Public Hearing date. Jack Scavone/Dave Barrow motion to set the Public Hearing date for July 26, 2010. Motion was unanimously approved.

5.3 **P&Z App. #762 – TOMLEN, LLC** – Request for a Special Permit/Site Plan revision to change the use from a 66 unit Age Restricted development with single family detached dwellings to a 66 unit Multi-Family development with 50 percent of the dwellings duplexes. Location: Belvedere Ridge, 601 Old Post Road. Commission to set Public Hearing date. Before the Commission set a public hearing, Ms. Farmer reminded them that they have the ability in their regulations to designate any third party review that may be necessary to be paid for by the applicant. She said when the original application for the age-restricted community was being approved, they had a traffic study done. Jim Buberis did an update to the traffic report in 2003 finding no significant impact should occur with the then-proposed changes. However, when the 2003 study was done, there were no available ITE numbers and the development was evaluated as 32 single family homes and 34 condominiums. Scott Hesketh reviewed the Buberis report in 2003 and concurred with Mr. Buberis. Ms. Farmer said she expects the neighbors may make traffic an issue again, adding that they could use Scott Hesketh again if they decided to for a third party review and hold an escrow of 150 percent of his estimate.

Jack Scavone/Dave Barrow motion to set a Public Hearing date of August 9, 2010. Motion was unanimously approved.

Marilee Beebe /Dave Barrow motion to authorize the Town Planning Department to engage the services of Scott Hesketh to review the traffic report produced by James Bubaris of Bubaris Traffic Associates. Motion was unanimously approved. Ms. Farmer asked for some direction on other issues the Commission wants her to address. The Commission suggested he look at the size of the units, school bus traffic, and a potential bus loading and turnaround area.

5.4 **Sign Regulations** – Discuss possible revisions to sign regulations and current enforcement. Mr. Cardin reviewed some of the materials in the packets pertaining to signage. He said

Simsbury and Avon's approach of providing schematics was appealing. The Commission also discussed modifying language in their regulations so the Design Advisory Board could review, but not approve, sign regulations.

Mr. Cardin noted that Bolton, which has a small population, has sixteen pages of signage regulations and questioned why these matters need to be so complex. He would like to find a way to streamline the process and make it less onerous. Ms. Farmer asked if there was anything in the regulations that Mr. Cardin might want to eliminate. Mr. Cardin said possibly a lot of the prohibitions. Mr. Hughes noted that creating separate sign regulations for the different zones in town may add to the regulations. Ms. Beebe suggested that visual guidelines could be helpful in eliminating words. Mr. Scavone noted that Simsbury appears to have about half the number of regulations that Tolland does. Ms. Farmer said they would want to keep some of the wording that provides for flexibility.

There was some discussion about the desirability of signage such as exists at Mashapee Commons on Cape Cod and Ms. Farmer said she would try to get a copy of their regulations. It was also noted that in Glastonbury, the size of signs is determined by the number of tenants.

There was consensus to do sign regulations based on various zones, and Ms. Farmer said she could ask Steve Lowrey to take some pictures of businesses in the various zones about town. Mr. Scavone suggested they do the regulations for each of the separate zones at the same time so they can determine what types of signs would work in which part of town. Mr. Cardin asked Ms. Farmer for someone in the Planning Department to do a matrix that breaks down the zones by the three Neighborhood Commercial Zones, the Industrial Zone, the proposed Technology Zone, and the Gateway District and which looks at various signage particulars such as size, color, lighting, materials and types of signage.

6. **Approval of Minutes** – Approve minutes of June 14, 2010 Regular Meeting. Marilee Beebe /Dave Barrow motion to approve the minutes of the June 14, 2010 Regular Meeting. There was no discussion. Motion was unanimously approved.

7. **Activities and Updates**

- 7.1 Tolland Village Area – update on presentation to Town Council and meeting with DOT. Mr. Cardin said that in the Town Council presentation, he found them receptive to have Heidi Samokar and Glenn Chalder of Planimetrics continue to think outside the box. There was general agreement that the development of the Taylor property will springboard the Tolland Village Area. He said there was some concern from one of the Council members in envisioning a left turn toward the Green from Papa T's and there may be a need for a new connector road in that area. Mr. Cardin said he has heard that concern before.

Mr. Cardin said the meeting with the Department of Transportation was also encouraging. There was discussion about moving the commuter parking lot across the road with the intention of making it a destination place for buses and commuters. In this way the commuter lot could be used for something else. He said the DOT provided them with a list of people with whom they could review their plans. Ms. Farmer said that prior to their talking to the Town Council, George Mantak of the Economic Development Committee raised the issue of having the commuter bus from Hartford coming out one further exit to Tolland and for extending bus service from UConn.

7.2 CRCOG – update – Sue Errickson said there was a presentation on Hartford’s updated Plan of Conservation and Development. They started with 17 neighborhood groups that had their own plans and they brought each of these groups together. The turnout was excellent and the discussions focused on five themes. The two themes that resonated most with Hartford residents were the idea of complete streets and the encouragement of sustainable practices. She also said they use a third party independent outside source to implement their implementation plan.

8. **Town Staff Comments** – Ms. Farmer said they have interviewed nine people for the secretarial position and they expect to have someone on board shortly.

9. **Announcements** – Upcoming Meetings –None.

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

11. **Communications and Petitions from Commission Members** – Mr. Barrow said he was approached by Rick from Village Spirits regarding their interest in putting an ice machine on their outdoor walkway. The walkway is 8’ wide and the ice machine is 3’. This would leave 5’ for passing and he questioned if he could be allowed to install an ice machine. There was consensus among Commission members that as long as the passageway was compliant with ADA requirements, then the store could install an ice machine on the walkway. Ms. Farmer said she will look into the specifics of the ADA requirements.

12. **Public Participation**: None.

13. **Adjournment** – Marilee Beebe /Jack Scavone motion to adjourn the meeting and pay the clerk at 10:30p.m. Motion was unanimously approved.

Respectfully submitted,

Annie Gentile
Clerk