

**ROXBURY ZONING COMMISSION
ROXBURY, CONNECTICUT 06783**

**Regular Meeting
Monday, January 11, 2010**

MINUTES

Members Present: James Conway, Gary Coburn, Mary Elizabeth Peck, and Elaine Urban

Members Absent: Robert Falconer

Alternates Present: Stewart Kellerman, John Friedman and William Weed

Staff Present: Mary Barton and Karen Eddy

Others Present: Paul Szymanski, Sr., Paul Szymanski, Jr., David Sherman, Steven Zaleta, Jane McMahon, Linda and Kyle Szymanski and David and Laura Miller

Call to Order: Chairman Conway, called the Regular Meeting to order at 7:30 p.m.

Seating of Members: Chairman Conway seated regular members Conway, Peck, Coburn, Friedman for Urban and Kellerman for Falconer.

Approval of Minutes - Regular Meeting of December 7, 2009:

MOTION: To approve the minutes of the Regular Meeting of December 7, 2009 as amended: Page 5, Para. 9, initials MEP should be written as Mary Elizabeth Peck. **Motion** by Mary Elizabeth Peck, seconded by John Friedman and carried unanimously.

Building Lot Requirements:

James Conway suggested removing this item from the agenda until such time as there is activity to discuss.

MOTION: To remove Building Lot Requirements from the agenda. **Motion** by John Friedman, seconded by Gary Coburn and unanimously approved.

ZEO Report:

By-laws: Mary Barton noted that she had prepared draft by-laws, which were distributed to Commissioners for review. She explained that by-laws are guidelines/rules by which a Zoning Commission would run. She also noted that Attorney McTaggart had reviewed the draft by-laws and commented on them. Mary Barton asked if the Commission would like her to incorporate Attorney McTaggart's suggestions and then redistribute the draft by-laws. James Conway suggested waiting until the town attorney arrived to discuss the by-laws. Mary Barton explained that the format she used for the draft by-laws was taken from Tom Burn's book, "Planning and Zoning in Connecticut".

Enforcement Policy: Mary Barton noted that she had prepared a draft Zoning Enforcement Policy and Enforcement Priorities for review and discussion. The objective would be to standardize enforcement procedures so that all complaints are handled equitably. Mary Barton described reactive vs. complaint-based programs and noted a sample complaint form for review. James Conway commented that he would like to see all complaints in writing. Mary Barton suggested that complaints could be recorded on a spreadsheet for future reference. In response to the 167 complaints by Mr. Szymanski, she prepared a draft form letter (Draft letter for complaint investigation submitted by Paul Szymanski Sr.) and a draft compliance form letter that were distributed and discussed.

Elaine Urban was seated at 7:44 p.m. and John Friedman stepped down.

Mary Barton noted that the draft complaint investigation letter would include a copy of the complaint by Mr. Szymanski. Commissioners discussed and suggested several changes to the draft compliance form. It was agreed that the first question should be “Do you have a business at this location?”

Gary Coburn cautioned that revealing the name of the person making the complaint could precipitate safety concerns and should be reviewed by the town attorney before the letters are sent.

Mary Barton noted the positive aspects of open dialogue about the complaint.

Mary Barton explained that the complaints made by Mr. Szymanski were written, formal and should be investigated. She asked for direction from the Commission. The compliance form was discussed and several changes were agreed upon. A question inquiring whether a permit had ever been applied for was added.

MOTION: To instruct ZEO, Mary Barton to send letters to the people whom the Szymanski complaint pertains to incorporating the changes to the letter suggested by the Zoning Commission. **Motion by** Stewart Kellerman, seconded by Elaine Urban and carried unanimously.

Mary Barton noted that she would incorporate the suggested changes and email the final draft form to Commissioners for review. The target date for mailing the letters was set for January 21st.

Complaints by Szymanski: Mary Barton reminded the Commission of the original complaint by Steve Zaleta and their request that she begin an investigation of all potential, home based commercial businesses in town. She noted that while she did not put anything in writing to the parties she did ask them both to attend this meeting. Mary Barton noted that her investigation found the following: Mr. Szymanski and his son are employed in Moonlight Excavating. They haven't made any changes to the residence. Mr. Szymanski intends to put up a barn to store some vehicles. There is no storage of construction materials on site. It is not a “construction yard” which typically stores piles of pipe and stone. The materials on site are related to work that is being done on the property. There are no employees coming and going from the site. There is no on-street parking. Mary

Barton explained why a Category II permit would apply under the Zoning regulations. She suggested that Mr. Szymanski could either submit a Category II Home Enterprise permit or appeal her decision to the ZBA.

Mr. Kellerman inquired about what business activity was taking place on the site. Mary Barton explained that equipment is being stored on the site and there are outward signs of commercial activity. She indicated that when Mr. Szymanski is notified in writing, he could provide information that might convince her that he is not operating a business there. He has a business name and several trucks. On one occasion, Mary Barton noted a dump truck and backhoe on the site that seemed to be related to the work being done on the property. She also noted that there was very little visibility from the street and the fence provided further screening.

Mr. Szymanski clarified that he has one vehicle registered under Moonlight Excavating and one under his name. Mary Barton emphasized that she did not feel that a Category III permit would be required.

James Conway commented that even though there are no outward signs of business activity now, there is the potential for a Category II business. He agreed that a Category II permit would be needed and the ZEO should go forth with her suggestions.

Mary Barton reiterated that she would provide a written letter to Mr. Szymanski and then he would have the opportunity to discuss his situation further and apply for a permit or go to the ZBA to appeal the decision.

MOTION: To instruct ZEO, Mary Barton to go forward with her recommendations based on her findings regarding her investigation of the complaint against Mr. Szymanski (230 Baker Road). **Motion by** Stewart Kellerman, seconded by Gary Coburn and carried unanimously.

Mary Barton noted that this issue would be on next month's meeting agenda.

Deer Fencing: Mary Barton noted that she had asked for comments in writing from the town attorney to confirm that she had no issues with the Commission's proposal on deer fencing. The town attorney sent a sample regulation from the Town of Bedminster, New Jersey. Mary Barton felt that this example was more complicated than necessary for Roxbury. Mary Barton questioned why the Commission wanted to remove the fence color from its proposal. James Conway felt that color, side and rear setbacks should be addressed. It was decided to revisit the issue at the February meeting. Mary Barton agreed to revise the regulation and reissue it next month.

Chairman's Report:

Chairman Conway suggested adding a public comment section to regular zoning meetings. It would occur on the agenda after approval of the minutes and last no more than one-half hour. Those who wanted to speak to the Commission would put their name on a list by calling the Zoning Office. The first six to sign up would be allowed to speak for five

minutes. The topics of discussion could not include agenda items or personnel issues. Sign up could be done at the meeting if there was an open spot. The intention would be to encourage residents to speak to the Commission about whatever was on their mind. Chairman Conway noted he would like it to begin at the February meeting and suggested that it be publicized possibly on the website. It was reiterated that comments would not be entertained about future or pending applications or public hearings. If more than six sign up to speak at any meeting, they could request to be included on the list for the following month.

MOTION: To accept the procedure for public comment established at this meeting beginning in February 2010. **Motion by** Elaine Urban, seconded by Gary Coburn and carried unanimously.

Attorney McTaggart clarified that anything on the agenda whether it is related to a public hearing or not is off limits during the public comment segment of the meeting.

MOTION: To enter into executive session at 8:42 p.m. to discuss the pending litigation in the Frank Lasky and the High Meadow Riding Club cases and to invite the Town Attorney, the Zoning Enforcement Officer, the Land Use Administrator and Alternates Weed and Friedman to attend. **Motion by** Gary Coburn, seconded by Stewart Kellerman and unanimously approved.

MOTION: To reenter the Regular Zoning Meeting at 9:53 p.m. **Motion by** Gary Coburn, seconded by Stewart Kellerman and unanimously approved.

Review of E-Version Regulations (pages 25-50):

Gary Coburn confirmed that the Commission decided to include both the written and numerical version of numbers. Stewart Kellerman suggested that serial comments should not be included. (Example: A, B and C rather than A, B, and C.) There was consensus agreement with this suggestion. James Conway suggested that rather than all members reviewing every page, that members review and report on 10 pages each. Following discussion it was decided that teams of 2 members would review 10 pages, thus 40 pages would be covered at each meeting. Stewart Kellerman summarized that the goal was not to fix the regulations, but to get a digital copy of the regulations as they are now on line as soon as possible. If there are obvious mistakes they should be fixed, but it was noted that a disclaimer for errors is standard practice. Chairman Conway noted that pages 25-50 would not be discussed until next month. The teams of 2 covering 10 pages would start with the March meeting.

By-Laws (cont'd):

Stewart Kellerman suggested that rather than adopt by-laws the Commission agrees on certain guidelines. Mary Barton explained that the Commission could agree on guidelines, policies or procedures and they wouldn't have to called by-laws. Mr. Friedman suggested that there are certain good practices that should be followed as guidelines and would not have to be formally adopted.

Mr. Kellerman commented that alternates are allowed to speak at regular meetings up until a motion is seconded. He cited a case in New Milford in which an alternate should not have spoken at a public hearing.

Communications:

Chairman Conway noted receipt of the Communication items listed. He also reiterated that the Commission voted earlier to remove Building Lot Requirements from the agenda.

Mary Barton commented on the recent ZBA decision regarding a variance for a shared driveway granted to Mr. Wyant. She noted that he had indicated that he intended to return for an additional variance.

MOTION: To adjourn the meeting at 10:12 p.m. **Motion by** Elaine Urban, seconded by Gary Coburn and unanimously approved.

Respectfully submitted,

Karen Eddy
Land Use Administrator

CC: First Selectman, Town Clerk, Planning Commission, Wetlands Commission, Conservation Commission, ZEO, Town Attorney

Minutes are subject to approval by the Roxbury Zoning Commission.