

**ROXBURY ZONING COMMISSION
ROXBURY, CONNECTICUT 06783**

**Regular Meeting
Monday, January 12, 2009**

MINUTES

Members Present: Robert Falconer, Toby Goldfarb, James Conway and Elaine Urban

Members Absent: Gary Coburn

Alternates Present: William Weed, Mary Elizabeth Peck and Stewart Kellerman

Others Present: Mr. Lasky, Atty. Murtha, Mr. & Mrs. Sherman, Mr. & Mrs. Birkins, Mr. DiVesta and Mr. Mygatt

Call to Order: Chairman Falconer called the meeting to order at 7:32 p.m.

Seating of Members: Members seated were Falconer, Goldfarb, Conway, Urban and Peck for Coburn

Approval of Minutes:

MOTION to approve the minutes of the meeting of December 8, 2008 as amended:

Page 2, para. 2, add to last sentence....continue at that location.

Page 3, para. 4, 2nd sentence – change outdoor storage to shed.

Page 5, insert after para. 3 – William Weed stepped down and Toby Goldfarb was reseated.

Page 6, para. 3, insert after last sentence: Mr. Conway and Mr. Coburn will form a subcommittee to work on developing a ZEO job description.

MOTION by James Conway and seconded by Elaine Urban. Motion carried 4-0 with one abstention.

Lasky/88 Mallory Road – Special Permit Application

Attorney Murtha introduced himself as Mr. Lasky's representative. He explained that they have resubmitted their application with a more complete statement of use. It includes every truck that could be on the property and anything that might be stored on the property. He noted there are three employees. Currently on the property are a dump truck, a machine and three pickup trucks that are used daily by employees. It was explained that most of the equipment listed on the statement of use is usually out on job sites. However, they would like to be able to return them to the Mallory Road site when they are not being used. Mr. Murtha noted that the triaxle would not be returned to the site since that seemed to cause the most concern with the neighbors.

Mr. Kellerman and Mr. Goldfarb suggested that the language on the statement of use be changed to indicate that the listed vehicles "might be" parked (instead of garaged) on the premises. Mr. Goldfarb suggested that Item #10, which noted that the triaxle has been permanently removed from the property, be deleted from the list. Attorney Murtha amended the statement of use to incorporate these suggestions.

MOTION: To accept the amended application by Frank Lasky/88 Mallory Road for a Home Enterprise Special Permit. By Elaine Urban, seconded by Toby Goldfarb and unanimously carried.

MOTION: To schedule a public hearing on February 9, 2009 on the application by Frank Lasky/88 Mallory Road for a Home Enterprise Special Permit. By James Conway, seconded by Toby Goldfarb and carried unanimously.

Mygatt/Ranney Hill – Special Permit Applications – 2 Interior Lots

Professional Engineer, Doug DiVesta, said he represented Peter Mygatt on a 6-lot subdivision called Ranny Hill Meadows, which would be cut from a 44-acre parcel located in Zone A. Two of the six lots would be interior lots of at least six acres each. Both lots 2 and 6 would be accessed from Ranney Hill Road. The westerly Lot #2 would have a 50' frontage on Ranney Hill, a 230' accessway of .2710 acres leading to a 6.0364-acre lot and 2.5 acres of contiguous upland area (no wetlands). Lot #6 would have 1,590 linear feet of access way in addition to the 7.3613-acre building lot. Mr. DiVesta described the other lots in the subdivision. Lot #1 would have 3.7 acres with 2+ upland acres, Lot #3 would have 3.0642 acres with no wetlands on it, Lot #4 is over 5 acres with no wetlands, and Lot #5 has 6.4 acres. Lots 1, 3, 4 and 5 all have a minimum of 250' of road frontage onto Ranney Hill and a 250' circle as required. Mr. DiVesta explained the proposed site plan shows the proposed location of house, driveway, septic areas, wells, 250' circle and setbacks. He noted that the Wetlands Commission had approved this subdivision in November 2008.

Mr. Kellerman discussed the concern of the Wetlands Commission about flooding onto Ranney Hill Road. This resulted in a swale being added along Ranney Hill to improve the drainage situation onto the road. Mr. DiVesta noted that a 15" cross culvert would be used to cross over the swale in Lots 1 & 2. He pointed out where the culverts would connect to a catch basin toward Route 67. Mr. DiVesta noted that at the request of the Wetlands Commission they produced an extensive hydrology analysis showing a 0 increase in runoff from the site. He further noted that there are catch basins, drainage structures and infiltration systems on all the driveways near the road. It was noted that a report would be required from the Wetlands Commission. It was also noted that Lots 2 and 6 did not show the 250' circles, but there is ample room for them. The proposed house site on Lot 6 would be at the top of the hill and some trees would be removed for a view.

Mr. DiVesta explained that the proposal includes three open space parcels totaling 6.7 acres to fulfill the 15% requirement of the subdivision regulations. If trail systems are developed in the future, the pedestrian easement could provide access to that open space. It hasn't been decided whether the access would be for residents of the subdivision or the public.

It was clarified that the house on Parcel B is not part of the proposed subdivision. Mr. DiVesta noted that they plan to take Parcel B-2 and B-1 and combine them with parcel B.

Mrs. Urban expressed concern that the proposed development might impact the water table and wells of the surrounding landowners. Mr. DiVesta responded that they have prepared a hydrological study that found no impact. He offered to submit the study.

In response to Mr. Goldfarb's inquire, Mr. DiVesta explained that it would be impossible to create another interior lot by combining parcels B-1 and B-2 as the regulations would not allow it.

MOTION: To accept the application for an Interior Lot Special Permit for Lot 2 on Map entitled Ranny Meadows, prepared for Peter Mygatt, 36 Ranney Hill Road, revised October 8, 2008. By Toby Goldfarb, seconded by Mary Elizabeth Peck and carried unanimously.

MOTION: To accept the application for an Interior Lot Special Permit for Lot 6 on Map entitled Ranny Meadows, prepared for Peter Mygatt, 36 Ranny Hill Road, revised October 8, 2008. By James Conway, seconded by Elaine Urban and unanimously carried.

MOTION: To schedule a public hearing on February 9, 2009 on the application for an Interior Lot Special Permit for Lot 2, Ranny Meadows by Peter Mygatt, 36 Ranney Hill Road. By Toby Goldfarb, seconded by James Conway and unanimously carried.

MOTION: To schedule a public hearing on February 9, 2009 on the application for an Interior Lot Special Permit for Lot 6, Ranny Meadows by Peter Mygatt, 36 Ranney Hill Road. By Toby Goldfarb, seconded by James Conway and unanimously carried.

Mr. Mygatt invited Commission members to visit the Ranny Meadows site.

High Meadow Riding Club – Chairman Falconer tabled discussion.

Building Lot Requirements – Chairman Falconer tabled discussion.

Utility Cabinets

Chairman Falconer will speak to the Town Attorney about whether permits can be required.

ZEO Reports – No Report was issued.

Appointment of ZEO (Section 18.1.1) – Chairman Falconer noted that the last amendment to this regulation removed the term of the ZEO and he would like to reestablish one. Mr. Kellerman pointed out that the reason it was amended was to eliminate the lapse in the ZEO's term from January 1 until the January meeting. Mr. Falconer expressed concern that there is no administrative way to review the work of the ZEO and it is now an appointment for life.

Mr. Goldfarb felt that a one-year term would be quite limiting. Mr. Falconer suggested language, which would allow the ZEO to serve from the date of appointment until the Zoning Commission next takes up this issue. Mr. Weed felt that a more definite term is needed in order to evaluate the job performance at an established time so that it doesn't become a personal issue. Mr. Kellerman suggested that appointment should be confirmed at the first meeting of the year.

In response to Mr. Goldfarb's inquiry, Mrs. Eddy confirmed that this could be considered an administrative amendment and would not require a public hearing.

Mr. Falconer suggested that the ZEO could serve for a term of one year from whenever a new ZEO is found. He noted that after March 1st we don't have a ZEO and wondered if the position had been advertised. Mr. Falconer felt the Commission should give Mrs. Henry a job description. Mr. Conway said that Gary Coburn had spoken to Mrs. Henry before the holidays and she had given him some job descriptions from other towns.

In response to questions by Mary Elizabeth Peck, Mr. Falconer explained that the ZEO is a paid position that is hired by the Board of Selectman and appointed by the Zoning Commission.

Mr. Goldfarb suggested the following amendment to the regulations: *With the advice and concurrence of the Zoning Commission the Chairman shall appoint a Zoning Enforcement Officer for a term of one year.*

Mr. Falconer indicated that he would like to take the recommendations of the subcommittee regarding the ZEO job description and incorporate them into a regulation so that there is a concrete idea about what is expected.

Ms. Peck suggested contacting Washington ZEO, Mr. Ajello.

It was noted that the ZEO would be required to attend Zoning Meetings. The idea of having all candidates come before the full Commission was discussed. It was the consensus of the Commission that Mr. Falconer and Mr. Conway should interview all candidates on behalf of the Commission. Mr. Conway noted that he and Mr. Coburn would be working on developing a job description. Mr. Goldfarb asked Mrs. Eddy to request a job description from Washington's ZEO.

It was noted that a Zoning member could be appointed as an assistant ZEO. Mr. Conway thought that at one time Mr. Coburn had been interested in that position.

It was noted that the ZEO position is budgeted for 10 hours per week. The Zoning Office is open to the public 8 hours per week. The open hours are used to answer general zoning questions and to accept, review and approve applications.

Mr. Falconer asked that Mrs. Eddy confirm with the town attorney that the Commission could make administrative changes to the regulations without going through the posting process. Mrs. Eddy reiterated that administrative changes could be made without the public hearing process, but suggested that the town attorney be consulted for advice on the proposed changes.

Mr. Goldfarb reiterated his suggested language as follows: *With the advice and concurrence of the Zoning Commission the Chairman shall appoint a Zoning Enforcement Officer for a term of one year.* He added... *The Chairman may appoint an Assistant Zoning Enforcement Officer.*

Ms. Peck questioned how the Commission could appoint a person when the Board of Selectman hires them. Mr. Falconer explained that they are being paid by the Town of Roxbury, but serve in an official capacity of the zoning commission only after appointment. It's up to the Commission if they want a person to serve as their ZEO. Mr. Conway felt the Commission should do the hiring.

Mr. Falconer reiterated Mr. Goldfarb's suggestion for amendments to Section 18.1.1 as follows: *With the advice and concurrence of the Zoning Commission the Chairman shall appoint a Zoning Enforcement Officer for a term of one year (he added.... as authorized agent of the zoning commission). With the advice and concurrence of the Zoning Commission, the Chairman may appoint an Assistant Zoning Enforcement Officer (**for a term to be determined by the Zoning Commission at the time of appointment). The appointees may or may not be members of the Zoning Commission.*

**There was discussion about the length of the term of an Assistant ZEO. Some felt it should be for specific periods to cover during the ZEO's absence. Another suggestion was for the Assistant to serve whenever the ZEO was not available and that would be worked out between them.

Mr. Goldfarb suggested adding a new section 18.1.2 – *The Zoning Enforcement Officer and Assistant Zoning Enforcement Officer shall perform the duties of their respective job descriptions.*

Mrs. Eddy was asked to prepare a draft of the suggested language and send it to members to review in the next mailing.

Chairman's Report

Chairman Falconer noted receipt of a questionnaire from the Planning Commission asking Town officials and organizations for their opinions about the *State of our Town* in preparation for amending the Plan of Conservation and Development. This questionnaire was mailed to all Commission members.

Mr. Weed asked whether the town has the authority to address what he feels are problems at the Roxbury Market and Post Office. He feels the inadequate and untimely plowing of the parking lot, clearing the steps and traffic flow through the parking lot are dangerous. It was noted that the property is privately owned and a new owner is in the process of reopening the market. It was also noted that the Fire Marshall and Health Official do periodic inspections of the facility. Mrs. Eddy was asked to check into whether Zoning and the ZEO would have jurisdiction related to the public safety issues raised.

Communication:

Mrs. Eddy noted that a portion of Section 4 of the Zoning Regulations is being reissued to correct a numbering error. She asked Commission members to include it their Zoning Regulations.

Smart Growth Committee: (SGSG)

Mr. Goldfarb who is a member of the Smart Growth Committee discussed their recent activities. He noted that Gary Coburn is now an ex officio member. One subcommittee is focusing on determining what regulations would have to be changed to allow apartment houses, multi-tenant dwelling and/or condominiums, etc. The goal for the next meeting on January 22nd is to come up a list of specific regulations that would have to be changed or added to allow for other forms of housing. This is in response to a perceived feeling in town that people need to be able to downsize to other types of housing. The idea is to parallel existing regulations such as Elderly or Affordable Housing. The SGSG is coming up with ideas that they will report back to the Board of Selectman and eventually present to the Zoning Commission. Hopefully, the next meeting will flush out the direction in which the SGSG is heading.

Mr. Kellerman expressed concern about the focus on changing regulations rather than finding a suitable location for alternative housing.

Mr. Goldfarb noted that the Planning Commission minutes report that members of the SGSG Committee have met with a developer to discuss the concept of a group of smaller homes on smaller lots on property on Southbury Road. He expressed concern that this was not discussed with the entire committee and indicated he would speak to the Chairperson about it.

Szymanski/230 Baker Road complaint: Mrs. Eddy gave a report prepared by the ZEO to Chairman Falconer. Chairman Falconer explained that he had received an email from Russ Dirienzo who got a complaint about backhoes, equipment and piles of dirt being stored on the Szymanski property. The complainant, who did not want to be identified, claimed that a driveway was being installed possibly without a permit.

Chairman Falconer asked Mr. Pierpont to check on the complaint. He noted Mr. Pierpont went to the site, but could not make contact with the owner. He read Mr. Pierpont's Initial Report, which indicated that he planned to meet with the owner and prepare a follow-up report with photos for the Commission.

Mr. Goldfarb asked what is needed to issue a cease and desist order. Mr. Falconer said the ZEO has the authority to issue a cease and desist on the spot when a violation is discovered. He noted that it has been Mr. Pierpont's practice to bring controversial issues to the board first.

Mr. Goldfarb suggested that a Cease and Desist be issued immediately and then the owner can explain to the Commission what is going on. It was noted that a driveway violation would be handle by the Board of Selectman, not zoning.

Chairman Falconer said the Commission might have another issue to deal with depending upon what Mr. Pierpont finds.

MOTION: To adjourn the meeting at 9:10 p.m. Motion by James Conway, seconded by Toby Goldfarb. Motion approved unanimously.

Respectfully submitted,

Karen Eddy
Land Use Administrator

Cc: B. Henry, P. Hurlbut, R. Dirienzo, R. Lowe, J. Pierpont, R. Falconer, R. Munson,
G. Steinman, G. McTaggart

These minutes are not considered official until approved by the Roxbury Zoning Commission