

**ROXBURY ZONING COMMISSION  
ROXBURY, CONNECTICUT 06783**

**Regular Meeting  
Monday, May 11, 2009**

**MINUTES**

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

**Members Absent:** Gary Coburn

**Alternates Present:** Mary Elizabeth Peck and Stewart Kellerman

**Alternates Absent:** William Weed

**Staff Present:** Mary Barton and Karen Eddy

**Others Present:** Mr. & Mrs. Stuart

**Call to Order:** Chairman Falconer called the Regular Meeting to order at 7:35 p.m.

**Seating of Members:** Chairman Falconer seated members Falconer, Goldfarb, Conway, Peck and Kellerman

**Approval of Minutes:**

**MOTION:** To approve the minutes of the Public Hearing of April 13, 2009 with the following amendment: Page 9, Para. 2, 3<sup>rd</sup> sentence, should be Mr. Weinberg.

**MOTION BY:** Ms. Peck, seconded by Mr. Conway. Motion carried 4-0 with 1 abstention.

**MOTION:** To approve the minutes of the Regular Meeting of April 13, 2009 as modified: Page 1 under "Others Present" - add Atty. Weinberg; Page 2, last Para, first sentence - correct spelling of intact.

Under discussion of the minutes Mr. Goldfarb commented that he did not agree with the statement on page 7, paragraph 5, "Mrs. Barton felt it would be considered a structure as it sits on the ground."

**MOTION BY:** Mr. Goldfarb, seconded by Mr. Conway. Motion carried unanimously.

**Executive Session – Pending litigation Lasky vs. Roxbury Zoning Commission**

Chairman Falconer moved this items to the end of the agenda.

**Stuart/160 Baker Road – Application for Food Concession**

It was noted that the applicants were not present. Mr. Falconer asked about the status of this application and Mrs. Barton explained that she had tried several times to call the applicants and left messages, but has not heard from them. She noted that the application could be continued until next month. There are still questions about the septic. Mr. Falconer indicated that the application would remain on the agenda, but a completed plan would be needed by the next meeting. Mrs. Barton said she would send a letter advising the applicants of their status.

**High Meadow Riding Club – Special Permit Application -** Chairman Falconer tabled this item.

**Building Lot Requirements** - Mr. Falconer tabled this item, as Mrs. Urban was not present.

**Utility Cabinets** - Mr. Falconer read a section from a memo by Gail McTaggart dated March 26, 2009 entitled, "A Guide to Electricity Supply Meter Box and other Utility Cabinet and Equipment Locations in Roxbury", which listed suggested guidelines for their unobtrusive location as follows:

- Zoning applicants should plan ahead for electric supply meter placement and other utility cabinets and equipment by locating the incoming service appropriately.
- Whenever possible, locate the meter box or other utility cabinet and supporting structure back from the street frontage by the minimum setback required for buildings.
- Attached meter boxes to buildings whenever possible.
- Meter boxes and other utility installations must comply with the public service company's regulations and other relevant legislation.
- After discussion the following section was deleted--Co-locate the meter box with other structures permitted within the front setback that are large enough to accommodate and "conceal" the meter box, subject to height limitations. It was noted that the only things allowed in setbacks are mailboxes and stone walls.
- Mr. Falconer said he did not like stockade fences and suggested that this section be deleted— Following discussion this section was deleted--If in keeping with the streetscape character of the neighborhood, locate the meter box or other cabinet forward of the building alignment, only if it is integrated with an allowable front fence of 6' in height, and the meter box and surrounding structure has a maximum height of 6'.

Mr. Goldfarb commented that the Utility Company does not have to observe these suggestions. Mr. Falconer said they were meant for homeowners. Mr. Goldfarb argued that the homeowner has no control over their placement. Mr. Falconer said that once the structure is in place, the homeowner should have responsibility for screening it.

- Paint the meter box and related support structure and surrounds (or other utility cabinet) dark green or other color to blend it into the environment; landscape as feasible consistent with utility company requirements to screen meter box pedestal/meter box and/or utility cabinets and supports (**add**) from the road. (The Commission discussed various types of plantings, trees and shrubs that could be used.

Mary Barton suggested that the guidelines could eventually be incorporated into the Subdivision and Zoning Regulations. They would become part of the site plan review process for a zoning permit.

It was noted that a proposed regulations would have to go through the public hearing process. Mr. Falconer asked that Mr. Conway put a regulation together and present it to the Commission for further discussion. Mrs. Eddy was asked to forward the memo from the town attorney on this topic to Mr. Conway and Mr. Goldfarb.

**Review of Zoning Regulation Section 18.1.1** – Mr. Falconer reminded that the Commission had discussed recreating an annual appointment and annual review of the Zoning Enforcement Officer. Mr. Goldfarb noted that there is no sunset provision now. Mrs. Barton noted that by State statute the ZEO serves at the pleasure of the Commission who appoints them and can remove them. Following discussion it was the consensus of the Commission to leave the regulation alone and remove it from the agenda.

**ZEO Report** – The ZEO Report along with the list of permits issued for the month were distributed. Mr. Falconer asked that Mrs. Barton also include denied permit on her report. She said that in most cases she would discuss potentially controversial denials with the Chairman first and all would be shown on her report. In the future Mrs. Barton said she would email her report to members prior to the Zoning meeting.

The following items from the ZEO Report were discussed:

230 Baker Road: Mr. Goldfarb asked what could (legally) be parked on the (Szymanski) property. Mrs. Barton explained that any vehicles must be associated with a residential structure and that would not normally include 4 to 6 heavy-duty construction vehicles. Mr. Goldfarb suggested that there are other similar situations in town. She noted that this came to her as a result of a complaint by Steve Zaleta and

several other neighbors. She noted that this is her initial interpretation and she plans to meet with Mr. Szymanski and walk the property. Before taking any action she said would check with the town attorney. If she were to issue a Notice of Violation, it could be appealed to ZBA. If she issued an NOV and Mr. Szymanski applied for a Home Enterprise permit, it could be appealed to court. Mrs. Barton agreed that there are many similar operations in Roxbury. Because a complaint has been received and it will probably create uproar, Mrs. Barton felt she should check with the town attorney before taking any action. This is about the parking of vehicles, not a home enterprise. Mrs. Barton asked the Commission if they wanted to encourage or discourage home enterprises. Mr. Falconer explained that the Commission revised the regulations to encourage home enterprises.

Mrs. Urban arrived at 8:07 p.m.

Mrs. Barton felt that the (Home Enterprise) regulations really eliminate this type of use beyond one or two vehicles. The 500 sq. feet of outside storage allows only 2-3 vehicles. Mr. Conway argued that 6 vehicles could be parked in a 50' x 10' parking area because no vehicle is wider than 8 ft. Mrs. Barton noted that the vehicles involved here are much bigger than those allowed in the Lasky permit. Mr. Conway agreed that a trailer is wider. Mrs. Barton said a dump truck is bigger lengthwise than passenger vehicles. Mr. Conway noted that an F350 isn't much over 10', but a triaxle would be. Mrs. Barton said she would physically look at the dimensions of actual vehicles. Mr. Conway suggested looking at six spaces in a parking lot, which allow room for opening doors. Mr. Szymanski would be parking for storage and would not have to worry about opening doors. Mrs. Barton noted that the regulations don't provide any direction regarding the size of vehicles. The only size limitations discussed were related to the Lasky permit. Mrs. Barton wondered if the Commission wanted to continue on with that size limit. She noted that some communities go by the gross vehicle weight.

According to Mr. Goldfarb the Commission's position regarding Mr. Szymanski was taken because there are no parking regulations. He wondered if it would be advisable to create parking regulations before getting into a situation like this. Mr. Conway agreed that parking issues should be clarified. Mrs. Barton said she is trying to respond to the complaint and is looking for some direction from the Commission. Mr. Falconer said he agreed that if it is not specifically allowed in the regulations, then it is not permitted. There is nothing that allows a commercial parking lot in a residential zone. Mr. Goldfarb saw a problem with a regulation decision that is not applied equally across the board. He suggested asking Mary Barton to research parking regulations in other towns and then the Commission could promptly create a regulation. He expressed concern that picking on one individual because of a complaint could lend itself to being overruled. Mr. Kellerman suggested that if the Commission does undertake this task that Mr. Zaleta be informed that we are working on a regulation. Mrs. Barton felt that the only way to issue an order in this situation would be to find all the other "ones" and send them all letters at the same time. Then it would be equal opportunity enforcement. Mr. Goldfarb felt it would be better to have a regulation in place before sending out such a letter. Mrs. Barton said it would be nice to have some direction on parking, but its not permitted in the regulations. She felt it was the Commission's discretion and she needed to know what direction the commission wanted her to take. There are a lot of vehicles of this type and lots of these businesses operating in the community. Mr. Conway cautioned that a new regulation would not apply to existing situations. Mrs. Barton said you run the risk of creating nonconformities, but she was not sure if nonconformities would apply to vehicles. Mr. Conway noted that the word "commercial" is not in the parking regulation. He said he parks four vehicles at his house. Mrs. Barton noted that the parking regulation says incidental and customary to a residential house. She would not consider a dump truck a residential vehicle, but to some it might be. Some people drive oil trucks, etc. Mr. Falconer asked how many vehicles are on the Szymanski property. Mrs. Barton said she saw at least four vehicles. Mr. Conway noted he has two triaxles, several F450's, an excavator and a huge boat. Mrs. Barton wondered if his employees park there and take the vehicles.

Mr. Goldfarb suggested that the town attorney be consulted about this issue. She should be informed that there are a good number of people in town who are doing this and while they may not be violating our

regulations, the vehicles are larger than normal for a residence. If we created a regulation now, would those preexisting situation be protected?

Mrs. Urban mentioned that its now trendy for homeowners to have mini-excavators (Cabotas). She wondered about the difference between a nonfarming resident that owns something like this and someone in an enterprise. Mr. Kellerman said we are not talking about one piece of equipment meant for home use. We are talking about Triaxle dump trucks, which are not for home use. Mr. Kellerman felt it would be a difficult regulation to write. He noted that school buses parked at some residences are even larger vehicles. Mr. Falconer advised waiting for the attorney's input before any further action is considered.

Mr. Falconer noted the next three items on the ZEO Report:

Rossiter/Baker Road – complaint about junk vehicles to be reviewed

Hodges/Baker Road – complaint about unregistered vehicles to be reviewed

Holroyd – response to FOI request.

Wireless communication facility/316 Perkins Road Southbury was briefly discussed. Mrs. Barton noted that this is on the Roxbury line and the agent from the cellular company wanted to notify Roxbury of its plan and intent to hold an informational meeting to determine any negative impact.

McDonald's bridge (Moosehorn Road) was discussed. Mrs. Barton noted that she had read the minutes and noted that the Commission's interpretation was pretty clear-cut. She will provide a response to Mr. McDonald's questions.

#### **Stuart/160 Baker Road – Application for Food Concession (cont'd)**

Mrs. Barton noted that she had attempted to reach the applicant by phone and left several messages. She asked if they had spoken to Keith Vaughn since the last meeting about his concerns regarding a holding tank vs. septic system. Mrs. Stuart said he gave them a couple of different options one of which was to install a small septic system. She said they would use only paper goods and would only need water for hand washing. They presented an updated site plan and noted that everything is staked on the site. Mrs. Barton asked about the lighting and fixtures, which were not on the plan. Mr. Stuart said they would have two light poles that would be lit during business hours only.

The driveway plan was discussed. They plan to widen the driveway cut to 24 feet. Parking is currently in the field near the flower shop. They envision a walkway connecting the two parking areas.

The applicant said they had checked on the Caboose that was mentioned at the last meeting, but it was not for sale. They are not sure what the truck will look like until they actually see it. They envision a sign on the truck. They would start with a 10' x 20' truck and consider erecting a building next year on the same footprint. The truck/trailer would be more economical and allow for a faster start-up.

Mr. Goldfarb noted that the applicant could not erect a building unless it was approved.

Mr. Conway said he had no problem with the selling of hotdogs at that location.

Mr. Falconer said he has seen bad looking buildings and trucks that are well kept, landscaped and look fine. In general he would prefer to have a building, but that would be a lot more work.

Mrs. Barton noted that the permit would be for a site plan approval for a food service operation in the commercial zone. Since it's the use that is being discussed, it wouldn't really matter whether it is a truck or a structure.

Mrs. Urban asked if the sign would be on the truck? Mr. Falconer noted the size limit is 4 sq. feet. Mrs. Urban expressed concern that the truck with sign would become more prominent during the off-season

when landscaping shrinks back. Mrs. Stuart indicated that if the maximum size allowed is 2 x 2 then she would prefer to have the sign out by the road. Mrs. Barton noted that a roof sign would not be allowed.

Mrs. Stuart said her plan would be to open the hotdog stand from May through October every day except Monday from 11 AM - 8 PM. Picnic tables might have umbrellas over them or be placed under a pergola.

Mr. Falconer suggested that the area from the parking area to the food counter be illuminated for safety reasons. He suggested light fixtures similar to those at the Senior Center, which project light from three-foot posts to the ground. The goal would be lights that are not high intensity and that would not pollute the neighborhood. Mrs. Barton asked that the applicant provide a cut sheet showing the height of the fixture and the area of illumination.

Mrs. Urban expressed concern about the proposed parking. She thought that the State might require a barrier to protect the building from the parking area. Mrs. Stuart thought that railroad ties could be used. Mrs. Urban worried that two separate parking areas might create added safety issues. She suggested increasing the depth of the current parking area. Mr. Stuart sketched on the site plan the parking area suggested by Mrs. Urban. Mr. Conway did not feel that the traffic flow would be heavy enough to warrant concern. Mr. Falconer agreed that the exercise of normal caution would be sufficient. Mrs. Urban suggested containing the use to one parking area for both the greenhouse and the food stand. She compared it to Pete's in Middlebury (Route 64), but Mrs. Barton noted that that is a much higher traffic area.

Mr. Goldfarb said he has a problem with the Commission designing the site plan. Mrs. Urban argued that her suggestions were for practical, safety and aesthetic reasons. Mr. Falconer felt that the Stuart's intent was to make "it" look nice and not put up something that the town would be ashamed of. He said he doesn't have a problem with parking near the walk. He asked where the picnic tables would be placed and thought that the view would be a consideration. He noted that Mamie's has tables on the lawn. Mrs. Stuart said that people walk from Mamie's to the greenhouse now. Mr. Falconer asked if they could put tables in line with hers. Mrs. Stuart indicated she could and would face them toward the gardens.

Mr. Stuart said they are willing to work with the Commission, but their plan is being questioned and they are trying to be flexible. Mr. Falconer suggested revising the hours of operation to daylight only until they look into the cost of lighting. Mrs. Stuart felt that 8 PM is still daylight. She would consider closing earlier in the fall. Mrs. Stuart said she would look into the cost of the lighting. Mr. Falconer said a decision regarding this application would have to be made by the next meeting.

Mrs. Barton said that they would have to provide lighting that would make it safe for customers to go from their car to the stand and then to the tables. She said she would look at the lighting at the Senior Center. Mr. Goldfarb reiterated that there would be no light poles.

Mr. Falconer said he thought the Senior Center walkway lighting was different from the parking lot. Mr. Falconer asked if they would be willing to operate during daylight hours. Mrs. Stuart agreed to daylight hours if the cost of lighting was outrageous.

Mrs. Barton said they need to resolve the health question regarding the septic and asked that they come to the town hall and meet with Keith Vaughn. At that meeting all other questions could be addressed.

Mr. Falconer reiterated that the hours of operation would be during daylight from 11 a.m. to sunset. He suggested that the picnic tables could be set back from the road the same distance as Mamie's. Mrs. Stuart felt that that would put them too close to the road. Mr. Falconer asked that table placement and lighting be indicated on the map. Mrs. Barton asked for a spec. sheet on the lighting.

Mr. Falconer said that if they plan to install lighting, it be shown on the map and asked that they bring in a sample fixture. They should also show the placement of the picnic tables.

Mr. Falconer asked where the porta-potty would go and how it would be screened. Mr. Stuart thought it would go alongside of the greenhouse where it would be screened.

Mrs. Barton noted that they do have a statement of use. Mrs. Stuart agreed to meet with Mrs. Barton the following day at 9:30 a.m. Mr. Falconer reiterated that the current application is for a truck and landscaping around it.

**ZEO Report cont'd** – Mrs. Barton noted she had received a question from a homeowner on South Street with a four-acre lot in Zone “C”, who wanted to keep three acres and cut the rest off to give to the abutting neighbor. She told them they would need six acres in order to do a free cut. Mr. Falconer agreed. Mrs. Barton noted that their motivation was to resolve a feud between neighbors.

**Chairman’s Report**

Mr. Falconer noted his attendance at a Planning Workshop on the Plan of Conservation and Development. The idea that affordable housing was needed for volunteers for the Fire and Ambulance in Roxbury was discussed. Mr. Falconer disagreed and explained that New Milford and Oxford have lots of affordable housing and yet they have paid volunteers. It’s not the availability of affordable housing that drives volunteers but rather their love for the town. Mr. Falconer continued that people (volunteers) in smaller towns seem to have more of a connection with their town than in larger towns or cities. Mr. Munson disagreed with him

**ZEO Report cont'd** - In response to Mr. Goldfarb’s question, Mrs. Barton explained that her letter to Mrs. Holroyd (attached to her ZEO report) had been sent in response to an FOI request.

**Communication:** Information mailed with the packet was noted.

**MOTION:** To enter into executive session at 9:15 p.m. to discuss Pending Litigation with Lasky vs. the Roxbury Zoning Commission and invite the ZEO and Land Use Administrator to attend. **MOTION BY:** Toby Goldfarb, seconded by James Conway and approved unanimously.

Executive Session ended at 9:30 p.m.

**MOTION:** To adjourn the meeting at 9:31 p.m. **MOTION BY:** Toby Goldfarb, seconded by Stewart Kellerman. Motion carried 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**