

**ROXBURY ZONING COMMISSION  
ROXBURY, CONNECTICUT 06783**

**Regular Meeting  
Monday, October 13, 2009**

**MINUTES**

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

**Alternates Present:** Stewart Kellerman, John Friedman and William Weed

**Others Present:** Barbara Henry, Mary Barton, and Gail McTaggart

**Call to Order:** Chairman, Robert Falconer, called the Regular Meeting to order at 7:32 p.m.

**Seating of Members:** Chairman Falconer seated regular members Robert Falconer, James Conway, Gary Coburn, Elaine Urban and Mary Elizabeth Peck.

**Approval of Minutes- Public Hearing of September 14, 2009 (Stuart):**

**MOTION:** To approve the minutes of the Public Hearing of September 14, 2009 (Stuart) as written.

**MOTION BY:** James Conway, seconded by Mary Elizabeth Peck. Approved 4-0-1. Gary Coburn abstained.

**Approval of Minutes- Public Hearing of September 14, 2009 (Utility Boxes):**

**MOTION:** To approve the minutes of the Public Hearing of September 14, 2009 (Utility Boxes) as written.

**MOTION BY:** Elaine Urban, seconded by James Conway. Approved 4-0-1. Gary Coburn abstained.

**Approval of Minutes- Regular Meeting of September 14, 2009:**

**MOTION:** To approve the minutes of the Regular Meeting of September 14, 2009 as amended.

- Page 1, first sentence under Stuart: Mr. Kellerman noted that the word “have” should be inserted after the word not.

**MOTION BY:** James Conway, seconded by Elaine Urban. Approved 4-0-1. Gary Coburn abstained.

**Building Lot Requirements – Continue discussion:**

Elaine Urban reported that she had forwarded an article to the members regarding restrictions imposed in Guilford on footprints of houses that radically change a neighborhood. This is to protect the character of an existing neighborhood. She noted that her point is that there is already legislation in Ct. regarding this issue. Mary Barton added

that Westport, Greenwich, and Bethany have similar regulations due to the number of tear downs and rebuilds in their communities. Elaine Urban noted that this was a good place to start. The article explained that these concerns represent a strong trend.

**ZEO Report:**

Mary Barton reported that she wrote a letter to Dennis McDonald addressing his Zoning Complaint regarding a gazebo located at 51 Moosehorn Road. She explained that James Pierpont approved the gazebo and based on her review there is no reason to revise that decision.

Mary Barton reported that as requested by the Commission she has been reviewing existing home enterprise in Roxbury. She obtained a list of home enterprise from the Tax Assessor and has visited 10 sites to date. She noted that she visited the Szymanski residence and did not see any outward signs of a business. They will take a collective look at all home enterprise once she has finished her review.

Mary Barton addressed the issue of unregistered motor vehicle complaints. She explained that she attended a seminar regarding the issue of vehicles for private sale. The DMV explained that there is no limit on the amount of vehicles that can be sold by an individual; however, the vehicle being sold should be registered to the address from which it is being sold.

Mary Barton reported that she reviewed the Zoning Regulations with regard to the proposed plan for the telecommunications tower. She found several conflicts and questions to be addressed. The proposed distances from residential homes are unclear. The Regulations require an evergreen buffer and a sign stating the owner's name. She is unclear of the reason for the use of a gabion wall for the retaining wall and has questions regarding the overhead utility lines. Robert Falconer added that the Regulations state that cell towers are only to be allowed on municipal property.

Barbara Henry reported that she will go to the Siting Council meeting to fight against this tower. She explained that she has received several complaints of terrible AT&T service recently, which is being found suspect. She has questioned why they do not fix the existing tower. The Commission discussed raising the height of the existing tower and adding the required light as a possibility; however, were unsure that this is a solution the people would want.

Stewart Kellerman reported that he has a photo of the eastern box turtle on his lawn, which is closer to the site than the previously sited turtle. Mary Barton noted her concerns with the narrow road. They will possibly have 12 carriers using the tower which equates to a huge disruption to the neighborhood regarding the constant traffic by carrier to service the facilities.

Robert Falconer asked Mary Barton to put together a report to be reviewed at the next Zoning meeting. They agreed to respond with their issues once the application is filed with the Siting Council.

Mary Barton discussed the letter received by David Sherman regarding the Lasky matter. She noted that this is still litigation. She agreed to put together a letter in response for Robert Falconer's review.

**Discussion of possible zoning amendments:**

- **Restaurants as permitted uses by special permit**

Mary Barton distributed a proposed amendment for the Commission's review. They discussed eliminating the mention of walk-up windows. James Conway noted that he felt this was too large of a step for Roxbury. Elaine Urban voiced her concerns regarding the effects this would have on existing businesses. Gary Coburn noted that the town is trying to entice business at the Station. Robert Falconer explained that all proposals would go before the Zoning Commission for their review to determine whether a special permit is required. Mary Elizabeth Peck agreed that there was not a need for the amendment at this time. Elaine Urban suggested researching and writing into the Regulations something regarding formula businesses.

- **Limiting the number of enterprises allowed on properties in Zone D**

Robert Falconer clarified their request for a build-out report for Mary Barton. He explained that the limiting factors are square foot and parking.

- **Deer fencing**

Mary Barton distributed information regarding deer fencing. She noted that there has only been one request. The Commission agreed that black mesh deer fencing at the height of 8 feet would not be a problem at the rear or sides of a lot. The posts and fencing should not be visible at a distance of 50 feet. Mary Barton agreed to send a copy of the proposal to the town attorney.

**Chairman's Report:**

Robert Falconer explained that the upcoming question on the ballot is binding regarding whether Zoning should be elected or appointed. He explained that he would like the Commission members to state their opinions for the record.

Gary Coburn explained that if the majority of voters want the Commission to be elected then he would not have a problem with that. However, he is not happy if this vote has been shanghaied and ramrodded onto the town.

Elaine Urban noted that she felt it is unfortunate that the Selectmen's heads are on the chopping blocks due to the questionable motives of a few people. She feels the option of appointing Planning would have neutralized this problem. She will not run if Zoning becomes an elected position.

James Conway explained that he would not have a problem with this becoming an elected position. However, he does not like the way this came about. He noted that as elected Zoners it would give them more teeth if brought to litigation and the Selectmen would be relieved of pressure from the people because in both cases the Zoners would have been the people's choice. As an elected Zoner the term would have to expire to be removed from the Commission; whereas, as appointed they can be told to leave at any time. He noted that nobody is contested in an election in Roxbury. He would stand for an election if this is what the voters want.

John Friedman explained that it is hard to say that voters should not have a say; however, it is done both ways in this country. He noted that as appointed Zoners they are sheltered under the Selectmen's umbrella to do the job at hand. He supports the current way of selecting Zoners as appointed.

Stewart Kellerman explained that he is an independent voter and is not comfortable running under either party. A contested independent would have no chance at being elected. He probably would not stand for election. He feels that changing an entire system to get at one person is not a good thing to do to the town.

Mary Elizabeth Peck explained that she feels that the BOS does a good job in appointing members. It is her opinion that all commission members should be appointed to shorter terms.

William Weed noted that the BOS understands the capabilities required for the position. The town's people probably do not really know who they are electing. They should believe in their Selectmen to make the right selections. Elected people do not go through the process that appointed people do. He is upset that this could happen. He is concerned that the only people who will come out to vote will be those who with motives for this change.

Robert Falconer explained that he was asked to serve this town 10 years ago. He loves this town. Most people do not want it to change. He feels that the BOS looking over the Commission's shoulders is more of a check and balance than having elected members would be. He does not consider himself a politician and would not stand for election.

**MOTION:** To add Lasky to the agenda under Executive Session.

**MOTION BY:** By Elaine Urban, seconded by James Conway. Approved 5-0.

**Executive Session – Pending Litigation High Meadow Riding Club and Lasky:**

**MOTION:** To convene in Executive Session at 9:02 p.m.

**MOTION BY:** By James Conway, seconded by Gary Coburn. Approved 5-0.

**MOTION:** To exit in Executive Session at 9:59 p.m.

**MOTION BY:** By Elaine Urban, seconded by Gary Coburn. Approved 5-0.

**MOTION:** To adjourn the meeting at 10:00 p.m.

**MOTION BY:** By James Conway, seconded by Gary Coburn. Approved 5-0.

Respectfully submitted,

***Tai Kern***

Tai Kern, Secretary

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

**Minutes are subject to approval by the Roxbury Zoning Commission**