

**ROXBURY ZONING COMMISSION  
ROXBURY, CONNECTICUT 06783**

**Regular Meeting  
Monday, July 13, 2009**

**MINUTES**

**Members Present:** Robert Falconer, James Conway, Elaine Urban and Gary Coburn  
**Alternates Present:** Stewart Kellerman, William Weed and Mary Elizabeth Peck  
**Others Present:** Barbara Henry, Mary Barton, William Tracy, Tim and Michelle Stuart, Greg Cava and Tammy McVey-Camilleri of Voices

**Call to Order:** Chairman, Robert Falconer, called the Regular Meeting to order at 7:42 p.m.

**Seating of Members:** Chairman Falconer seated members Robert Falconer, James Conway, Gary Coburn, Elaine Urban and William Weed for Toby Goldfarb.

Mr. Falconer talked about how much Toby Goldfarb meant to him personally. He was a great Commissioner and a person who he relied upon heavily. He had a very keen intellect and will be very sorely missed.

**Approval of Minutes- Public Hearing of June 8, 2009:**

- Page 2, para 2: Mr. Falconer noted that the word “he” should be inserted before confirmed in the second sentence.
- Page 2, para 7: Mr. Falconer noted that the word “crows” should be replaced with the word “crowns”.

**MOTION:** To approve the minutes of the Public Hearing of June 8, 2009 as amended.

**MOTION BY:** William Weed, seconded by Gary Coburn. Approved 5-0.

**Approval of Minutes- Regular Meeting of June 8, 2009:**

**MOTION:** To approve the minutes of the Regular Meeting of June 8, 2009 as written.

**MOTION BY:** Gary Coburn, seconded by William Weed. Approved 5-0.

**High Meadow Riding Club – Special Permit Application for an exercise ring for horses**

Mr. Falconer recommended that the Commission refrain from making a decision until they have the opportunity to review the materials provided today. Mr. Conway noted that he is prepared to make a decision. Ms. Urban explained her concerns whether this would be a commercial or private operation. Ms. Barton confirmed that the statement of use is private, but offered to review the record for further clarification. The Commission agreed

that the items of concern should be reviewed since this application has been stretched out over such a long period of time.

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

Tim and Michelle Stuart reported that they have amended their application to build a separate 10X20 single story structure to match the existing building. The parking area would be between the structure and the existing flower shop. They submitted photos of the proposal. Both buildings would be the same distance from the road. Additionally, a sketch of the portable restroom screen was submitted. Mr. Stuart confirmed that there may be a picnic table or bench placed outside the structure. They submitted a commitment letter dated July 10, 2009 to have the grease or oil removed from the facility for recycling.

Mr. Falconer reviewed the correspondence regarding this application. He noted correspondence from P. Keith Vaughn, Assistant Sanitarian, Newtown District Department of Health explaining that the approval process is pending with the Health Department; however, the plan has been approved in concept. The septic system is feasible with details forthcoming and a grease trap is not required due to the menu limitation. A stack to vent cooking odors is not necessary per CT Public Health Code.

A letter dated June 23, 2009 from the Roxbury Historic Commission in opposition of the proposal was read. The letter stated concerns with the location's abutment to a State Scenic Road, concerns with trailer, lighting and portable toilet which all would have an affect on Roxbury's rural character. Mr. Falconer read letters of opposition from John and Rosemary Paul and Louise Sunshine. The Conservation Committee explained that they avoid involvement in specific applications; however, noted their concerns with procedure for this multiphase project.

Chairman Falconer read aloud the response to the Notice of Intervention and the Commission reviewed each issue point by point. The Commission determined that point (a) is the only issue that still stands, due to the amendment of the application and Health Department's reports. Mr. Falconer asked Mr. Cava if he would like to amend his petition accordingly. Mr. Cava explained that he would need to review the new plan and intervene again if necessary.

The Commission discussed point (a) with regard to the proposal's unreasonable impairment to the area. The Commission agreed that the area is zoned commercial and that traffic is to be expected with new businesses. To attempt to prevent motorcycle traffic would be discriminatory. It was agreed that it would be difficult to determine whether the impact would be an unreasonable impairment. The Stuarts confirmed that the recommended lighting would be used. Ms. Barton advised that motorcycle summer cruises would not be permitted per the Regulations.

The Commission reviewed and considered each point of the intervention. The Commission determined that based upon the changes to the plan, the points made in the intervention are mute or not an unreasonable impairment.

Mr. Kellerman noted that the Regulations were unclear regarding the allowance of restaurants. He explained that they should not risk litigation when the Regulations can be revised to clarify this issue. He distributed copies of a proposed amendment to the Regulations. Mr. Cava agreed that there is no degree of certainty in the Regulations with regard to restaurants. The Commission discussed whether they felt that restaurants were already permitted per the current Regulations. They reviewed section 20.6 which lists groceries and food separately.

It was noted that the failure to mention restaurants in the Regulation does not encourage the addition of places to eat in town and that the revision would be good idea not only to clarify the Regulations but also to encourage restaurants. Ms. Barton recommended that if restaurants are added they should be as special permit use. It was confirmed that if the addition of restaurants to the Regulations was overwhelmingly opposed in a public hearing existing restaurants would not be affected.

**MOTION:** To approve the application of Stuart/160 Baker Road – Application for Food Concession Truck with following modifications:

Whereas the Roxbury Zoning Commission (the Commission) has received an application for a Site plan Approval from Tim and Michelle Stuart 160 Baker Road Roxbury, CT to operate a Food Concession Stand located at 160 Baker Road, Roxbury CT in a Business Zone D , and

Whereas the Commission has held meetings on this application on April 13, 2009, May 11, 2009 and June 8, 2009

Whereas the Commission has reviewed all the documents submitted by the applicant and town staff as follows:

- 1) Minutes of the Zoning Commission meeting on April 13, 2009
- 2) Minutes of the Zoning Commission meeting on May 11, 2009
- 3) Minutes of the Zoning Commission meeting on June 8, 2009
- 4) Statement of Use dated April 9, 2009 from Tim and Michelle Stuart latest revision dated July 9, 2009.
- 5) Staff memo from Mary Barton, Zoning Enforcement Officer dated April 9, 2009.
- 6) Staff memo from Mary Barton, Zoning Enforcement Officer dated July 9, 2009 to P.Keith Vaughan, Assistant Sanitarian Newtown District Department of Health with specific responses to questions raised by Attorney Cava in his Notice of Intervention.

- 7) A letter dated June 1, 2009 from Bonnie Bradley of 168 Baker Road, Roxbury, CT
- 8) A letter not dated from John and Rosemary Paul 16 Jonathan Drive Roxbury, CT
- 9) A letter dated June 17, 2009 from Louise Sunshine 127/129 Baker Road, Roxbury, CT
- 10) A letter dated June 23, 2009 from the Roxbury Historic District Commission
- 11) An Opposition outline presented by Attorney Gregory Cava re: Michelle and Tim Stuart Application for Site Plan/Food Concession Truck Approval submitted to the Zoning Commission at the June 8, 2009 regular meeting.
- 12) A Verified Pleading filed pursuant to Section 22a-19 of the CT General Statutes.
- 13) Copies of Zoning Regulations and meeting minutes 1975 to 2000 and a copy of the application approved for the property on Baker Road owned by Bruce Wragg where the intervener Mamie Keys now currently operates a restaurant.
- 14) An email from the Conservation Commission dated July 9, 2009.

It is therefore resolved that the Zoning Commission approves the Application for Site Plan Approval from Tim and Michelle Stuart 160 Baker Road , Roxbury, CT to operate Food Stand at 160 Baker Road, Roxbury CT in a Business Zoning District D subject to the following modifications:

- 1) The Food Stand shall be seasonal May through October.
- 2) The hours of operation are 11:00 AM to 8:00 PM Tuesday through Sunday.
- 3) The Food Stand will sell lunch and dinner hot dogs and hamburgers, soft drinks, water, ice cream. The food shall be grilled and deep fried. All food items shall be sold in paper and plastic containers. The only clean-up shall be the washing of utensils, kitchen equipment, food trays, and counters, floors, and employee's hands.
- 4) The lighting shall be dark sky compliant and shall be similar if not the same as the low lighting used at the Town of Roxbury Library.
- 5) The Food Stand shall be constructed in a building and not in a truck as indicated in a revised statement of use dated July 9, 2009. The building has to be in harmony with the neighborhood appearance as shown by the exterior appearance of the existing building.
- 6) There shall be only one driveway to access the site from Baker road AKA State HWY #67.
- 7) The parking for the Food Stand shall be as shown on the submitted site plan.
- 8) Any proposed signs shall be submitted to the ZEO for compliance with the Sign Regulation of the Roxbury Zoning Regulations.

Conditions of approval to be added to the site plan.

**MOTION BY:** Gary Coburn, seconded by William Weed. Approved 3-2. Urban and Conway opposed.

The Commission agreed that the addition of restaurants to permitted uses by special permit will be discussed at the next meeting. Mr. Kellerman agreed to prepare the draft Regulation.

**Stuart/160 Baker Road – Special Permit Application for a Bed and Breakfast**

- Public Hearing scheduled for August 10, 2009

**Winthrop/239 Good Hill Road – Special Permit - Home Enterprise application**

Ms. Barton noted that the applicants are not present. She explained that they are proposing a large warehouse structure, which will be used partially for the storage of business equipment. She suggested that this should be a special permit. Ms. Barton noted that there are several outstanding issues that need to be clarified by the applicants.

**Building Lot Requirements – Continue discussion-** tabled

**Utility Cabinets – Clarify Regulations**

Mr. Conway presented proposed a regulation on meter pods and utility boxes.

**MOTION:** To insert into Zoning Regulations section 5.3.1.i: Any Electrical Supply Meter Pod and/or Utility Box located within the 50’ front setback must be screened from view of any road on which the property fronts. The screening must be of natural type (i.e.) evergreen trees or shrubs that will not lose their effectiveness throughout the year.

**MOTION BY:** Gary Coburn, seconded by William Weed. Approved 5-0.

**ZEO Report**

Ms. Barton reported that she has been continuing to work on enforcement. A lot of time was spent this month working on the McDonald violation and Wetland issues. She has also been working with Szmanski, Hodge and on an issue on Blueberry Lane. She reported that she attended the Planning meeting and explained she has been researching lighting control.

Mr. Falconer thanked Ms. Barton for all the work she has done for the Commission. He noted that the issue of cell towers is something that the Commission is interested in reviewing.

**Chairman’s Report**

Mr. Falconer noted that he had nothing to report.

**Communications:**

Planning and Wetlands Minutes

ZEO’s seminar on Lighting, Noise, Blight Control (*to be distributed at meeting*)

Report on Zoning Regulations Project

Mr. Falconer confirmed the Commission's receipt of the communications. He offered to open the meeting to communications from the public.

**MOTION:** To adjourn the meeting at 10:09 p.m.

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

Respectfully submitted,

*Tai Kern*

Tai Kern, Clerk

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

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