

**ROXBURY ZONING COMMISSION**  
**Regular Meeting**  
**Monday, June 8, 2009**

**MINUTES**

**Members Present:** Robert Falconer, James Conway, Elaine Urban, Toby Goldfarb and Gary Coburn  
**Alternates Present:** Mary Elizabeth Peck, William Weed and Stewart Kellerman  
**Staff Present:** Mary Barton and Karen Eddy

**Others Present:** Mr. & Mrs. Stuart, Mr. Cava, Ms. Bradley, Ms. Fare, Ms. David, Ms. Keys, Mr. Zaleta

**Call to Order:** Chairman Falconer called the Regular Meeting to order at 7:58 p.m.

**Seating of Members:** Chairman Falconer seated members Falconer, Goldfarb, Conway, Urban and Coburn.

**Approval of Minutes:**

**MOTION:** To approve the minutes of the Public Hearing of May 11, 2009 as written.

**MOTION BY:** Mr. Conway, seconded by Mr. Falconer and carried with 3 abstentions.

**MOTION:** To approve the minutes of the Regular Meeting of May 11, 2009 as amended: Page 4, 2<sup>nd</sup> paragraph correct spelling of KUBOTA; page 5, 4<sup>th</sup> paragraph, last sentence should read...She compared it to (delete Pete's, insert) an example in Middlebury on Route 64....

**MOTION BY:** Mr. Conway, seconded by Mr. Goldfarb and carried with 2 abstentions.

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

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

Mrs. Barton explained that she met with the applicants and the location of the porta-potty and picnic tables were added to the site plan. The lighting agreed upon was the same as that used at the Senior Center. Mr. Falconer invited all interested parties to view the site plan. Mr. Stuart presented a sketch of a proposed wooden, three-sided building, which would enclose the porta-let and shield it from view. Two plantings would be placed in front of it. Mrs. Barton had discussed with the applicants the size and location of signs, which would be similar to the businesses next door. It was noted that there would be two separate parking areas, one for the flower shop and one for the food concession. The existing drive would be widened to 24'. Mrs. Barton noted that preliminary discussions with the DOT have taken place and the First Selectman would also need to review the plan.

Mrs. Barton noted she had received a complaint from Attorney Cava, who is representing the adjacent Mamie's Restaurant. Their issue is that the proposed use should be considered a restaurant, which is not permitted in Zone D. Her research on Mamie's site showed that the building was approved as office/retail space in 1986 for well drilling. Mrs. Barton further noted that no restaurants have been allowed since 1975 in Zone D. The first food service showed up in 1991 as a deli, which apparently had seating. This was followed by the Creamery, which also had seating. A sign permit was issued in 2004 for a restaurant. It is unclear how the site became a restaurant since they were never allowed in the zone and this regulation has not changed. Mr. Cava felt that the Stuart's proposed use is a restaurant. Mrs. Barton felt that it was more like a retail/food-to-go. Mr. Falconer read from Section 20.61 the definition of Retail Business, which does not include restaurants and Mrs. Barton reiterated that this definition hasn't changed since 1975. Based upon Mr. Cava's interpretation that this is a restaurant and not permitted, the same would apply to Mamie's restaurant.

Mr. Falconer read a letter from Bonnie Bradley dated June 1, 200, which opposes the Stuart's application. Mrs. Barton noted that she had contacted the DOT regarding the use on a scenic highway and it is her understanding that their role is advisory only and there is no permitting process. She expects to hear something more concrete in writing.

Mr. Kellerman read from Section 2.4.4 – Business Zone D – “Commercial uses in this district are limited to those, which generate little traffic and have a local, limited market area.”

Attorney Cava addressed the Commission noting that he represented Mamie Keys, the owner and operator of Mamie's Restaurant. He discussed the reasons why his client is opposed to the Stuart's application for a Food Concession Truck. *The following is a summary of his comment.*

Mr. Cava reiterated that the regulations do not permit restaurants in the zone. Retail stores do not include restaurants. He suggested that Zoning Officials in the past have interpreted the regulations to say that restaurants are a retail use because the following zoning permits had been issued for this site: a restaurant sign, a building permit for refurbishment of the space for a restaurant, and a zoning permit for Selma's restaurant. He cited the doctrine of Municipal Estoppel, which stops the Municipality from interfering with a use, which isn't permitted but has been acted on in reliance on the municipality.

Mr. Cava said, “We have absolutely no objection to a restaurant going in next door.” He feels the Commission should decide where it wants restaurants and craft regulations to deal with the different categories of restaurants. The issue of truck-type food services needs to be carefully weighed because it raises all kinds of questions. They come with self-contained units to handle the waste products and water, which for a fair weekend can be taken off site and emptied but for a permanent truck could become a major hassle. Hotdogs and hamburgers create a lot of grease and there is no grease/water separator in the plan. Pouring grease into a septic would destroy it. If grease makes its way into ground water or a brook it would be a problem. These are important health issues and regulations are needed to deal with them. We have no objection to a restaurant or hotdogs and hamburgers. Their objection is to a truck, which will demean the area and change the appearance of a scenic road and lead to a lawsuit. No trucks of this sort are allowed in Roxbury and it could lead to a proliferation of such retail services or food services. Once they are allowed in, it becomes impossible to get rid of them. Mr. Cava suggested that this application be denied. Further, the Commission should require that all restaurants be in buildings and rethink where they are appropriate, how many and what parking should be required. Another objection raised was the issue of exhaust fumes, which could bother the neighbors.

Mr. Cava presented a verified pleading under CGS 22a-19 noting that Ms. Keys is intervening under the Department of Environmental Protection Act to raise environmental issues. They feel that the conduct allowed in this application would impair, pollute or destroy the natural resources of air, water and views. It is likely to produce excessive traffic especially from motorcycles, fumes, odors and grease could pollute the air and water and views would be destroyed. Mr. Cava explained that an application, which could harm the natural resources, could not be granted unless there is no feasible and prudent alternative. The feasible and prudent alternative would be a building and a plan that complies with all health regulations. For those reasons he urged the Commission to deny this application and revisit the restaurant issue so that there can be restaurants in town. They would welcome a nice place that serves hamburgers. Mr. Cava explained that opening and operating a restaurant is not cheap and should not be undertaken lightly. There are many health requirements and this is really not the kind of precedent you want to set.

Mr. Cava submitted his “Opposition Outline”, which included his proposed findings to the Commission.

Mrs. Barton noted that the Stuarts have submitted an application to the Health District and talked extensively to Health Officer, Keith Vaughn.

Chairman Falconer invited the applicants to rebut.

Michelle Stuart noted that perk tests for septic had been done. She also noted that there are services for grease removal, which would be employed. They anticipate that the truck would only be used for the first year. When the business gets established they hope to construct a building, which would incorporate the inside of the truck. The trailer could then be recycled to haul plants for their greenhouse business.

Mr. Falconer asked what would happen if the business were not successful and Mrs. Stuart's responded that they would likely close it up, possibly use it for fairs or gut it to haul plants. Mr. Falconer asked if they would be willing to stipulate in the permit that the truck would only be used for the first season. Mr. Stuart added that they would resubmit a new application for permits to construct the building. Mr. Falconer asked Attorney McTaggart if that was legally sound? Attorney McTaggart said the Commission must determine whether the use is permitted. This is zoning permit for a site plan, not a special permit application. Mrs. Barton noted that as a site plan for a permitted use, the Commission must make a decision by June 17<sup>th</sup> or obtain an extension from the applicant. Attorney McTaggart noted the Commission could deny the application to avoid automatic approval. Attorney McTaggart explained that there is no basis to approve it as a one-year or seasonal permit because it's an administrative approval of a site plan. If there are some things that don't comply, stipulations can be part of the approval, but there is very little substance in the regulations that allow it to be treated like a special permit with conditions. It's either a permitted use or not. If it does not meet the setbacks and the requirements of the regulations then the legal obligation is to turn it down.

Mr. Conway said he did not see how selling food through a window of a trailer could be considered a restaurant. He feels that a restaurant is where you sit down and are served food. Mr. Kellerman said he did not feel a food truck is a permitted use whether it is called a restaurant or not. Mr. Conway felt it should be considered a retail business. Mr. Falconer thought that if the outside seating area were removed, it would be considered a retail establishment that sells food, which is allowed.

Attorney McTaggart said that restaurants are defined in a number of ways: fast food, order on a board, buy the food to be consumed elsewhere or buy the food to be consumed on site, table service, drive-thru, etc. Roxbury has such a small commercial zone that there aren't many regulations to govern it. Most towns have to deal with many different forms of restaurant uses. Roxbury's definition of retail includes food and groceries, which mean different things.

Mrs. Barton noted that Roxbury Health Department defines this as a food service rather than a restaurant. It would be the same thing as selling popcorn or roasting coffee. The Town's Health District has to first approve the application and then they must go through the State's food service licensing and training.

Mr. Falconer asked about the order for approvals. Mrs. Barton felt that it would important to obtain Health approval before zoning. She reiterated that it has been submitted to the Health Dept.

Mrs. Stuart confirmed that their application had been submitted to the Health Dept. month ago, but Mr. Vaughn said they first needed perk tests for a septic. He advised them that there was no sense in going through the licensing process until they found out if the business would be allowed and his decision was pending that of zoning. Mrs. Barton noted that Mr. Vaughn needs more information about the truck.

Mr. Falconer said he is hesitant to approve a retail use of this type without being able to stipulate the one-year timeframe, as he does not want to open the door for this type of establishment.

Mr. Goldfarb said he believed it is a permitted use under the regulations. The structure is the second issue. It is not a special permit and we can't restrict its life. Mr. Conway agreed with Mr. Goldfarb. It is a permitted use. He would consider it a food service trailer with some outside tables. Mr. Goldfarb added that if this is not a permitted use, then either is Mamie's a permitted use except it was permitted. It was permitted by its existence.

Mrs. Barton explained that Estoppel means that the owners have relied upon public officials (Zoning Officials) who have told them that the use is permitted. She explained that in 1991 a permit was issued for the Deli and then in 2004 for a sign. It was probably that the Deli originally had no seating.

Mr. Goldfarb said it seems unfair because nobody wants to see Mamie's to go away. There is the issue of "parallelism fairness".

Mr. Coburn felt it should be a permitted use. He felt the applicants would make it an attractive location in order to attract business. Here noted he has seen many nice looking food trailers and many brick and mortar establishments that were unsightly. He agreed that it should be allowed in the commercial zone.

Mrs. Urban said she recalled that the Roxbury Market had to sell groceries and could not become a full-blown food service operation. She felt that what happened in the Commercial District was an evolution of use. It started as a deli that sold groceries and also made fries and hotdogs. There were three other establishments in between and the one before Mamie's created a pizza restaurant. Somewhere along the way somebody allowed it as a permitted use without declaring it. It was never intended to be a permitted use. She feels the regulations need to be clarified. She reiterated that she is concerned about possible confusion created by two parking lots. Mr. Stuart clarified that they intended to place the Portalet along the vegetable garden so that it would be further from the neighbors. Mrs. Urban described the location of the various structures on the property and expressed concern that it would appear very dissected. Mr. Falconer said he did not see a problem with two parking areas for two separate businesses. Mrs. Urban said there are three parking lots if you include the residence. She expressed concern that the view from the street would look scattered by cars in more than one area.

Mrs. Barton confirmed that the Portalet would be concealed within a structure and Chairman Falconer pointed out its location on the site plan.

Attorney McTaggart discussed the Roxbury Market, which is in a residential zone and noted that there have always been issues about its preexisting use. When the renovations were done there was enormous interplay with this commission. There were affidavits presented to show that the owners of the property always intended to have some minimal food service in that facility. This Commission determined that it could go forward. There were issues about the number of seats allowed by the septic system. They actually built a foundation to expand that was stopped by a Cease and Desist Order and was never allowed. It was agreed that a few tables were allowed. That situation is very different than an area zoned for commercial use.

Attorney McTaggart clarified that Estoppel only applies to what was actually approved. If the Commission thinks that certain kinds of restaurant uses are allowed in the zone, it would not be that hard to define those uses. There is a level of food service where food is taken off premises that would be similar to buying food at a grocery store. Mrs. Urban noted that there was formally a catering service in the commercial zone, but it had no seating.

Regarding Estoppel, Mr. Cava explained that when you issue a permit to make renovations to the building in order to serve food and allow space for tables that is reliance. We are concerned that our parking lot is not overrun with people parking there for the greenhouse. Mrs. Stuart complained that Mamie's customers are walking their dogs on her property. Mr. Cava said they would be told to stop.

Mr. Cava felt that a restaurant doesn't have anything to do with whether you get served the food there. If that were the case then most of the fast food restaurants are not restaurants. The regulations are loose and have been that way and that could hurt us in the future. Trying to regulate after you issue a permit for a mobile business would be difficult. Mr. Cava feels that restaurants should be permitted to keep the town vital. Their issues are the type of structure, parking and the undesirable affects. There are no plans to show whether there is grease trap protection for the septic or for the height of the stack. There is no way

to evaluate the application without these plans. Working behind a stove coats you with odors. Hotdogs and hamburgers produce a lot of grease and it gets into the air. These are our concerns.

Mr. Goldfarb said there is no plan for a septic at this point and it's unlikely they would put the grease into their own septic system. Mr. Cava argued that there is no plan for conveying water or waste disposal. He expressed concern that they may hook a pipe to the septic system. Mr. Goldfarb said they plan to remove the waste from the premises as often as necessary and provide water via an underground hose from the greenhouse. They recognize that a septic may be required in the future. Mr. Cava said every drop of water that comes in must go out.

Mrs. Stuart noted that they have applied for a septic and perk tests have been done. The trailer has holding tanks and she would never dump the grease into the ground. She noted that their house is willed to their children and the rules made now would be adhered to in the future by them.

Attorney McTaggart noted that the application must be decided within 65 days or the applicant can consent to extend for another 65 days. Mrs. Barton noted that deadline for a decision would be June 17<sup>th</sup>. Attorney McTaggart reminded that the Commission must also deal with the intervention.

As the Commission had requested, Mr. Stuart displayed a sample of the lights that are currently installed at the Senior Center. After discussion, Mr. Falconer said they were not what he had in mind.

Mr. Coburn said he assumed that the regulations controlling the operation of a food service are administered by the State and local Health Departments and not by Zoning. The holding and/or disposal of the waste or oils would not be a concern of the Zoning Commission. In response Mrs. Barton explained that while Zoning is responsible for the public health and safety, it would rely on the Health Department to insure there is compliance with the regulations. Zoning would not typically approve an application until it had the approval from the Health Department. She also advised that the issues raised in the Intervention must be addressed.

Ms. Bradley addressed her concerns to the Commission. She referred to her letter that was read earlier. She said, "This is very troubling to me--the Stuarts are very nice people." She felt that regulations needed to be set first. If there were restaurant regulation for the Stuarts to follow, we wouldn't have all these concerns. She expressed difficulty understanding the Zoning Commission concept on this issue as she feels they should be concerned with the general wellbeing of the town. Wasn't the recent change from three to four acres done to keep the town country-like and to prevent building that would cause higher taxes and more children in the schools and more traffic, etc. Isn't Zoning supposed to be concerned with the character of the town? She feels that Michele and Tim are good neighbors but this idea is misguided. She expresses concern that the situation at "the station" is tenuous. There is more truck traffic because Weller's Bridge residents didn't want it. She feels a restaurant is fine. She enjoys the smell of coffee from Mamie's. However, a food stand would create smoke, noise and traffic from motorcycles. She wondered if problems develop from such a use if the Commission would be willing to address them later on.

Chairman Falconer read a Verified Pleading filed pursuant to 22A-19 of the Connecticut General Statutes filed by Mamie Keys for Intervenor status in regard to the application for a Food Concession Truck by Michelle & Tim Stuart. It alleges that "the Project" involves conduct that has, or is reasonably likely to have, the effect of unreasonably polluting, impairing, or destroying the public trust in the air, water or other natural resources of the State.

Attorney McTaggart noted that an Intervention petition does not increase the jurisdiction of the Commission beyond what the regulations provide. If there are matters such as air pollution that are not in the regulations, it does not increase the Commission's jurisdiction. She noted that Section 7.3 of the Zoning Regulations lists standards for Site Plan Approval which include such things as:

- Safe, adequate and convenient vehicular and pedestrian traffic circulation
- Effect on traffic conditions on abutting streets;  
**Attorney McTaggart noted that if you have a use that's permitted in the Zone (not by special permit) it deems that you can put a plan together that works for that use.**
- The number, locations and dimensions of the pedestrian entrances, exits, drives, etc.;
- The visibility in both directions at the exit points of vehicles entering or exiting the site;
- The location, arrangement and adequacy of landscaping within and bordering parking areas;
- Interconnection of parking areas via access drives within and between adjacent lots, in order to provide a maximum efficiency, minimize curb cuts, and encourage safe and convenient traffic circulation;
- The location, arrangement and adequacy of truck loading and unloading facilities;
- Patterns of vehicular and pedestrian circulation both within the boundaries of the development and in relation to the adjoining street sidewalk;
- The location, arrangement and adequacy of facilities for the physically handicapped such as ramps, depressed curbs, and reserved fifteen (15) foot wide parking spaces;
- The protection of environmental quality and the preservation and enhancement of property values. At least the following aspects of the site plan shall be evaluated to determine the conformity of a site plan to this standards:
  - a. Location, height and materials of walls, fences;
  - b. Prevention of dust and erosion through the planting of ground cover or installation of other surfaces;
  - c. The preservation of natural attributes and major features of the site such as wetlands, highly erodible soils, historic structures, major trees, scenic views;
  - d. The design and arrangement of buildings;
  - e. The provision of adequate storm and surface water drainage facilities to properly drain the site while minimizing downstream flooding;
- High quality building design: A design has to be in harmony with the neighborhood appearance as shown by the exterior appearance of the buildings, their location on the site, and their relationship to the natural terrain.

Attorney McTaggart noted that these regulations envision a building on a site and the conformity of that building. What's novel here is that there is no building. Mr. Cava argued that this use is nonconforming because there is nothing like it around.

Ms. Keys emphasized that she did not have a problem with another food service business next to her restaurant from a competition standpoint. She is concerned that it won't be aesthetically pleasing. She expressed concern about traffic and parking. She noted she had been in Roxbury for 10 years and has recently moved to Southbury. She has heard from many people that they are upset about this project.

Renee David of 13 Mine Hill who is directly behind the Stuarts complained that there is a large fan running constantly in the greenhouse that she can hear. She understands that it is needed to control the temperature in the greenhouse, but she is bothered by it. She wondered what would happen if she becomes bothered by the smells and the noise, etc. She said, "It's my home and I've put a lot of money into it and I have nowhere to go" She continued, "I don't want to have a fast food stand behind my house."

Ms. Keys noted that the exhaust stack on her building at 20' high is above everything. On a food truck it is on 7-8 feet in the air. Attorney McTaggart noted that the Health Code in CT is very strict and they would regulate food services issues such as fumes, the height of the stack, the grease trap issues, etc. Mr. Falconer indicated that he needed to have the Health report and Attorney McTaggart agreed that it would help with some of the environmental issues being raised. Chairman Falconer continued that without the Health report he would be reluctant to approve the application now. Mrs. Barton agreed to ask Mr. Vaughn to respond to the issues that have been raised.

Mr. Falconer noted that Commission must make a decision at this time unless the applicant agrees to either withdraw the application or extend it. Mrs. Stuart said she would grant an extension through July 13, 2009, which she confirmed in writing.

Mrs. Urban wondered if the Commission would “visit the validity” of the regulations. Chairman Falconer responded that the regulations could not be changed because an application has been filed. Attorney McTaggart added that the Commission must decide how it wants to interpret the regulations. Mr. Falconer commented that part of the thought process for granting or denying the application would depend on their interpretation of the regulations.

Attorney McTaggart asked to for a copy of the statement of use.

Mr. Falconer asked when the Commission must decide on the Intervenor issue. Attorney McTaggart noted that it’s a two-step analysis. The first step is to determine if there is potential harm to the State’s resources. If there is, the application can’t be approved unless there is a feasible and prudent alternative, which does not cause that impairment.

Chairman Falconer read the note prepared by Michelle Stuart granting the extension. He noted that the determination of adverse impact would come from the Health Department. Mrs. Barton agreed to ask the Health Department to respond in writing to each questions raised. Mrs. Stuart said she would get the information Mr. Vaughn needed.

Mr. Falconer noted for the record that a request for intervention was received and Mrs. Barton would speak with Keith Vaughn regarding the issues that were raised in it.

Mr. Falconer noted he would look at the lights at the old Town Hall. He thought they were on 3-foot wooden pillars and translucent on one side of the upper portion. Their light illuminated the parking area only. Mr. Coburn noted that those lights are at the Library not at the Senior Center. Chairman Falconer apologized for misleading the applicants regarding the location of the lighting. He confirmed that the application for the food concession truck would be extended until the next Zoning meeting.

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

Mrs. Barton explained that the application process has been started and the next step would be for the Commission to accept the application and to schedule a public hearing. She noted that applicants have also met with the Building, Health and Fire Officials and they have a good understanding of what they need to complete the application process. Mr. Falconer noted that the application must be completed by the date of the public hearing. Mrs. Barton suggested that the August meeting would give them time to provide all the required information. Mr. Falconer reminded the Commission that the High Meadow Riding Club Public Hearing is scheduled for July and could be quite long. The Stuarts agreed to the August meeting date.

Attorney McTaggart suggested that the public hearing process might be shortened if reports were submitted ahead of the hearing date, so that they could be available for public review before the hearing.

**MOTION:** To schedule a public hearing (prior to the regular meeting) on August 10, 2009 at 7:30 PM on an application by Stuart of 160 Baker Road for a special permit for a Bed and Breakfast. **MOTION BY:** Elaine Urban, seconded by Toby Goldfarb and unanimously approved.

**Building Lot Requirements** - Mr. Falconer tabled this item.

**Utility Cabinets** – Mrs. Barton noted that she and Mr. Conway were drafting a regulation.

**ZEO Report:**

Mrs. Barton reported that she had spoken to Attorney McTaggart regarding the parking of larger vehicles in the community. Parking regulations from several towns had been provided in the meeting packet. The question of whether these types of vehicles should be permitted needs to be discussed.

Chairman Falconer suggested that it would be appropriate at this time for the Commission to enter into executive session to discuss the pending litigation of Lasky vs. the Zoning Commission.

Chairman Falconer noted that Mr. Zaleta's complaint would be addressed later in the meeting under the ZEO Report.

**MOTION:** To add to the agenda Executive Session to discuss the pending litigation of Lasky vs. the Roxbury Zoning Commission. **MOTION BY:** Toby Goldfarb, seconded by Elaine Urban and unanimously approved.

**MOTION:** To enter into Executive Session at 9:38 p.m. to discuss the pending litigation of Lasky vs. the Roxbury Zoning Commission and to invite in addition to regular and alternate members Gail McTaggart, Town Attorney, Mary Barton, Zoning Enforcement Officer and Karen Eddy, Land Use Administrator. **MOTION BY:** Toby Goldfarb, seconded by James Conway and unanimously approved.

**MOTION:** To end Executive Session at 9:59 p.m. **MOTION BY:** James Conway, seconded by Toby Goldfarb and unanimously approved.

**ZEO REPORT (cont'd):**

At the request of the Commission, Mrs. Barton reported that she had looked into the issue of the parking of commercial vehicles at 230 Baker Road. She noted that Mr. Szymanski's business is registered with the Secretary of State as being in Roxbury rather than in Naugatuck as he had previously said. She also noted that there are two structures on his property that do not have permits. One is a gazebo and the other is a small structure. Mrs. Urban thought that the smaller structure was a dollhouse that was being erected. Mrs. Barton noted that she plans to address Mr. Zaleta's complaint by putting together a letter to Mr. Szymanski telling him he must apply for a special permit for a Home Enterprise III. She would then proceed to send letters to others residents who had similar types of vehicles.

Mr. Zaleta asked if Mrs. Barton planned to issue a Cease and Desist and she responded that she would start with a letter of request as the first attempt to obtain compliance.

Mr. Goldfarb mentioned that one of the vehicles is a triaxle, which should not be considered a personal transportation vehicle. Chairman Falconer noted that it would be over 10 feet in height.

It was decided that Mrs. Barton would make a list of all similar situations and bring it to the Commission for discussion before sending letters. A course of action would then be decided upon.

Mr. Zaleta asked if an excavating business was allowed in a residential zone. Mr. Falconer said that each case would be looked at individually to see if it conformed to the Category III Home Enterprise. Mr. Zaleta suggested that excavation contracting does not fall within the guidelines of a residential zone. Mr. Falconer noted that Mr. Lasky was just granted a special permit, which allowed for up to five vehicles in an outdoor storage area. Mr. Zaleta noted that Mr. Szymanski has a huge backhoe. Mr. Falconer said this regulation allows no more than 2,000 sq. feet for the total business including 500 sq. feet of outdoor storage. Mr. Zaleta noted that Mr. Szymanski has two garages.

Mrs. Barton noted that Woodbury requires screening of vehicles. She thought that the regulations from Warren, Morris, Goshen, and Harwinton might pertain. According to Attorney McTaggart limiting vehicles by gross weight would be an enforcement nightmare.

Mrs. Barton noted that Mr. McDonald has taken up a lot of her time. He tried to appeal the Commission's decision on the bridge to ZBA but lost his appeal time because he failed to follow through within the appropriate timeframe. She noted that now Mr. McDonald is trying to push her to make a decision so he could take it back to ZBA. She plans to provide him with the applicable regulations. Mrs. Barton described a situation between Mr. McDonald and his neighbor on Judd's Bridge in which they are fighting over property lines. Mr. McDonald claims that his neighbor has a swing set on his property. She felt that this is really a civil matter. Mr. Goldfarb noted that since Mr. McDonald does not own any property he must present a letter of authorization from his wife to speak on her behalf.

Mrs. Barton told the Commission she had met with a cell phone representative regarding a proposed cell tower at 126 Transylvania Road, Southbury. They will hold an informational meeting with all affected residents next month. If Roxbury had any issues, they could be presented at that time. She noted she would send out a site map when it comes in. The 20-acre parcel is heavily wooded with no wetlands. The tower would be 150 to 180 ft. high. The map of the property was reviewed.

Mr. Falconer mentioned that there is a nonconforming structure at the cell tower. Mrs. Barton said she had spoken to the First Selectman about it but has not had a chance to follow up on it.

Mrs. Barton presented a draft of a digitized Zoning Map prepared by HVA, which shows all parcels in Roxbury. It is based upon the existing zoning map. She said she would check with the town attorney to see if a public hearing was needed to adopt it. It could also include addresses if the Commission decided that is appropriate. Mr. Goldfarb spoke about the information that is currently available online as part of the Assessor's Vision Appraisals. Mrs. Barton said the Historic District could be added and wondered if the Commission would be interested in changing Zone A to conform to current property boundaries. Mrs. Barton noted that when a lot crosses two zone boundaries, usually the more restrictive zone would prevail. She hopes to eventually designate which 3-acre parcels are grandfathered under the new 4-acre regulation. The cost for the draft map was \$30.

**Chairman's Report** – No report was given.

**Communication:** Information sent in the meeting packet was noted.

**MOTION:** To adjourn the meeting at 10:34 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**