

**Town of Preston
Planning and Zoning Commission
Tuesday, September 4, 2007
Preston Town Hall
7:30 P.M.
Regular Meeting and Public Hearings**

Regular Minutes

1) Call to Order:

Secretary Parke Spicer called the meeting to order at 7:30 p.m.

2) Roll Call:

Mike Sinko – arrived 10:02 p.m.

Richard Chalifoux (alternate)

Art Moran – absent

George Jennings (alternate)

Joe Biber

Roy Beauregard

Also Present:

Thomas Fenton

Kathy Warzecha – Town Planner

Parke Spicer

Kathleen Nichols - Recorder

Ed Fleming (alternate)

Ed Fleming explained that he is considered an alternate until elections are over due to his not advertising his resignation as alternate in order to become a regular member– he will remain as an alternate until elections.

3) Determination of Quorum

Secretary P. Spicer seated George Jennings & Ed Fleming.

4) Approval of minutes of the August 7, 2007 Regular Meeting and Public Hearing.

A motion was made by Tom Fenton, seconded by Roy Beauregard to approve the Regular and Public Hearing meeting minutes as amended:

- Under Roll Call change Art Moran from absent to excused.
- Page 4 of the Regular Minutes – under Site Plans – letter B should read “reseeded” and not “resitted”.

All in favor. Motion Carried.

5) Communications

- a. BOS to address Commission re: ZEO.
- b. Letter dated August 2, 2007 from Edward M. Wucik, Teresa R. Izzarelli & Chester Sajkowicz to Planning & Zoning Commission re: Approval of Site Plan Application #2-07.
- c. Letter dated July 31, 2007 from Town of Montville Planning Department re: Zoning Regulation Text Amendment Section 9A.
- d. Zoning Bulletin dated July 15, 2007.
- e. CT Federation of P&Z Agencies Quarterly Newsletter dated Summer 2007.
- f. Letter dated August 6, 2007 from Town of N. Stonington re: Application for Special Permit #07-124, Bison Brook Farms, Inc.
- g. Notice of Cancellation/Non-Renewal of Bond # 02BSBDD5038, Virginia Landis Trustee & Frederic Peacos Jr., Trustee effective 10/18/07.

- h. Letter dated August 7, 2007 from State of CT DEP re: ZTC#2-07 Walter Kunzmann, applicant on behalf of the Mashantucket Pequot Tribal Nation, Finding: Consistent, modifications recommended.
- i. Copy of approved Zoning Text Change #2-07, Walter Kunzmann, applicant on behalf of the Mashantucket Pequot Tribal Nation effective date August 28, 2007.
- j. Letter dated August 9, 2007 from SCCOG re: 2007 Regional Plan of Conservation & Development.
- k. Letter dated August 15, 2007 from ZEO to Norman Barrett, 11 Kendall Rd re: Zoning Regulation 13.12.2.
- l. Letter dated August 15, 2007 from The Borderlands Projects to Town Planner re: response to Invitation of Interest for the Borderlands Village Innovation Pilot.
 - a) *Planner Warzecha commented that the Borderlands Village Innovation Pilot Program received many applications and decided to go with a block of towns from the NE part of the state vs. SE CT. There may be other opportunities to participate in a pilot in the future.*
- m. Letter dated August 17, 2007 from Andrew R. Bilodeau to P&Z Chairman requesting to be listed on the September 4, 2007 P&Z Commission agenda.
- n. Letter dated August 17, 2007 from Andrew R. Bilodeau to ZEO re: 6 Bunny Drive. Letter dated August 17, 2007 from Andrew r. Bilodeau to ZEO re: FOI.
- o. Letter dated August 21, 2007 from Edward M. Wucik, Teresa R. Izzarelli & Chester Sajkowicz to P&Z Commission re: request to be on the September 4, 2007 P&Z Commission agenda.
- p. Flyer received August 21, 2007 from University of CT re: CT Land Use Academy Workshops.
- q. SCCOG Newsletter received August 21, 2007.
- r. Letter dated August 21, 2007 from ZEO to Andrew Bilodeau, 99 Lakeview Drive re: FOI request. *(this communication was listed under letter n)*
- s. Letter dated August 22, 2007 from ZEO to Andrew Bilodeau, 99 Lakeview Drive re: 6 Bunny Drive. . *(this communication was listed under letter n)*
- t. Letter dated August 22, 2007 from Norwich, CT re: Proposed Zoning Map Change changing a tract or parcel of land on the southerly side of Route 2 adjacent to the Norwich-Preston Road (Rte. 2) from R-20 to GC.
- u. Letter received August 24, 2007 from SCCOG re: ZTC #2-07 Walter Kunzmann, applicant on behalf of the Mashantucket Pequot Tribal Nation.
- v. Letter received August 24, 2007 from Stephen J. and Ann D. Sawyer of New York re: 100 Miller Road.
- w. Letter dated August 23, 2007 from Chief Thomas Casey re: 6 Bunny Drive.

**The commission discussed amending the agenda to discuss Communications H, M, and V under Other Matters.
All in favor. So Voted.**

6) Public Hearings

a. Special Exception

- i. **Special Exception Application #3-07**, John & Mary Lee Wilcox, applicants/owners for property located at 6 Amos Road, requests to establish grape fields, harvest, utilize existing buildings for manufacturing and instruction of wine making and sale of finished product. *(See separate minutes of the Public Hearing)*

b. Subdivisions

- i. **Continued - Resubdivision Application #1-07**, Daniel & Estelle Harris, applicants/owners, for property located at 43 Harris Fuller Road; requests to create one new building lot. *(See separate minutes of the Public Hearing)*

7) Old Business

a. Special Exceptions

- i. **Special Exception Application #3-07**, John & Mary Lee Wilcox, applicants/owners for property located at 6 Amos Road, requests to establish grape fields, harvest, utilize existing buildings for manufacturing and instruction of wine making and sale of finished product under Section 4.2.10 of the zoning regulations.
A motion was made by G. Jennings, seconded by T. Fenton to table this application as the Public Hearing is still opened until the October 2, 2007 meeting. All in favor. So Voted. J. Biber abstained.

b. Site Plans

- i. **Site Plan Application #3-07**, John & Mary Lee Wilcox, applicants/owners for property located at 6 Amos Road, requests to establish grape fields, harvest, utilize existing buildings for manufacturing and instruction of wine making and sale of finished product.
A motion was made by R Chalifoux, seconded by R. Beauregard to table this application until the October 2, 2007 meeting. All in favor. So Voted. J. Biber abstained.

c. Subdivisions

- i. **Resubdivision Application #1-07**, Daniel & Estelle Harris, applicants/owners, for property located at 43 Harris Fuller Road; requests to create one new building lot.
A motion was made by T. Fenton, seconded by R. Chalifoux to approve Resubdivision Application #1-07 with modifications as follows:
 - Balance of engineer fees to be paid.
 - Land Surveyor to stake house, septic locations to ensure proper location of system & septic designs plan shall be part of plan filed and approved.
 - Open Space fee – waived by Commission due to having been paid previously.
 - Land dedication to town for road purposes.
 - Provide electronic version of plan to town.

All in favor. So voted.

8) New Business

NONE

9) Other Matters

a. *Draft Affordable Housing Regulations*

Draft housing regulations are not completed. Planner Warzecha is waiting to hear from Attorney Heller to schedule a meeting prior to moving forward. Ms. Warzecha received comments from Jane Dauphinais from SECT Housing Alliance re: a conversation that she had with a developer and suggested that 10 units per acre were not enough and possibly the town should think about having affordable housing on commercial property. The Commission was not in favor of modifying the regulations to permit any housing in commercial areas. Planner Warzecha communicated with another affordable housing developer whose opinion was that 10 units per acre were too many units per acre because it is difficult to fit units and all necessary appurtenances. The Commission concurred that they would keep the policy as previously discussed.

b. *Discussion with Board of Selectmen.*

The BOS addressed the Commission regarding jurisdiction over zoning enforcement issues, campground permits and adopting a Public Comment Policy. It was determined by the BOS that the P&Z Commission has statutory jurisdiction over Zoning Enforcement issues and Officer and it was recommended that a policy be written for receiving complaints and how they are handled. It was also recommended that a policy be adopted to track the approved site plans improvements of campgrounds. A discussion followed regarding creating a policy to allow Public Comment at meetings.

The Commission concurred that these items be placed on the agenda of October 2, 2007 for discussion and consideration.

c. *Request to address the Commission by Edward Wucik, Teresa Izzarelli and Chester Sajkowicz.*

E. Wucik, T. Izzarelli and C. Sajkowicz addressed the Commission regarding Site Plan #2-07, Strawberry Park Resort Campground.

E. Wucik stated that the concern was Site Plan #2-07 showing the parking lot was not received by the Planning Department in time for comments to be received from any other commissions, boards or the town engineer.

G. Jennings pointed out CT State Statute 8-26 states the commission may or many not require a site plan and may waive any provision of the site plan.

T. Fenton stated that the commission approved the plan pending approval by the town engineer. Planner Warzecha explained that Chairman Sinko requested a legal opinion from Attorney Manfredi regarding reconsidering their vote on an application. It was noted in Attorney Manfredi's letter that once a commission has acted upon a site plan application and decision has been published the commission may not thereafter modify or revoke it unless it was based upon fraud or misrepresentation and would require the commission to make a finding based upon clear and convincing evidence that information given to them was false and misleading and that it was given with the intent to mislead the commission and the information was relied upon by the commission to take action. Before any revocation the commission would have to give the property owner a hearing on all these issues with full opportunity to present evidence and examine witnesses. Any decision would then be subject to an appeal in court.

E. Wucik asked if the rules were the same for everyone in which the plans have to be turned in 12 days prior to the meeting or is it the discretion of a certain person or individuals. He also asked if a revised plan was submitted to date addressing the Town Engineer's comments.

R. Beauregard stated that all plans go to the Planner prior to the Commission.

Planner Warzecha stated they have not received the revised plans from the applicant yet addressing the town engineer's comments. The plans can be approved with conditions.

T. Izzarelli asked that once a commission approves a site plan they cannot modify it? Planner Warzecha stated they can approve a modification to an approved site plan. Planner Warzecha explained that the Commission did discuss whether the plan would require a special exception and the Commission agreed it did not.

T. Izzarelli asked about the issue of public comment and this evening T. Fenton stated that public comment is allowed on all issues, although it was not allowed on the evening of the Site Plan #2-07 approval. Co-chair Moran did not believe he could allow any public comments. T. Fenton agreed that he was mistaken on this issue.

Planner Warzecha suggested that the commission schedule a land use workshop in order to discuss how meetings are run, how to get public comment. The commission agreed that this could be scheduled (after November).

C. Sajkowicz asked what a conflict of interest is. Planner Warzecha stated that it is clearly identified in the State Statutes and is up to the person to make that decision to reclude himself on a matter. It would need to be determined by the courts if a person voted on something and made a poor decision.

S. Sajkowicz asked what is allowed in a buffer zone and presented the commission with an aerial photo of the area where the parking lot is now located.

P. Spicer stated that there is legal recourse to have a decision overturned.

At this time a motion was made by R. Beauregard, seconded by E. Fleming to add Communications H, M & V under Other Matters. All in favor. So Voted.

Communication (m)

Letter dated August 17, 2007 from Andrew R. Bilodeau to P&Z Chairman requesting to be listed on the September 4, 2007 P&Z Commission agenda.

At this time A. Bilodeau read for the record communication (m) item 1: regarding the ZEO attending meetings. Item 2: regarding who is responsible for the actions of the ZEO and item 3: Public Comment from the public.

Planner Warzecha stated that the ZEO receives all agendas, minutes, plan reviews and approved plans.

J. Biber addressed the concerns and stated that the ZEO is not required to be at the meetings.

- **The Commission concurred that the issues will be addressed at the October 2, 2007 meeting.**

Communication (h)

Letter dated August 7, 2007 from State of CT DEP re: ZTC#2-07 Walter Kunzmann, applicant on behalf of the Mashantucket Pequot Tribal Nation, Finding: Consistent, modifications recommended.

- **Following a discussion by the Commission it was determined that the concern of DEP is irreverent due to the fact that none of the RC district is located in Coastal areas.**

Communication (v)

Letter received August 24, 2007 from Stephen J. and Ann D. Sawyer of New York re: 100 Miller Road.

- Planner Warzecha gave an overview of what the potential buyers may want to do such as weddings and other various events.
After much discussion it was agreed that Planner Warzecha send a letter to the Sawyer's and thank them for their letter of interest. Planner Warzecha was also requested to investigate what other towns' regulations are and possibly the eastern end of Long Island where they have a lot of wineries. In addition, if the Sawyer's have any expertise in this matter to offer, the Commission would appreciate their effort to provide information to them. The Commission will revisit this discussion when Planner Warzecha has done some additional research and report back to the Commission.

d. *Cancellation notice for bond – Virginia Landis Trustee & Frederic Peacos, Jr., re: Site Plan Application #1-04 and Special Exception #1-04.*

The bond for Site Plan #1-04 and Special Exception #1-04 is up for renewal or cancellation in October. Planner Warzecha received a notice that bond was going to expire. Following discussion it was agreed that Planner Warzecha send a letter to the applicants/owners of Site Plan #1-04 and Special Exception #1-04 with a copy to the insurance company to notify them that the Commission understands that in the event the bond expires and a new bond is not renewed, that the site plan and special exception will be invalid.

A motion was made by R. Chalifoux, seconded by R. Beauregard to have Planner Warzecha write a letter on behalf of the Commission informing the applicants/owners of the status of the bond.

e. *Site Plan Application #3-01, Ahmed Choudhry, applicant/owner, for property located at 37 Route 2, request for bond release.*

Comments were received from the town engineer re: site inspection dated 8/31/07. It was recommended to retain \$50,000.00 of the \$215,000.00 bond.

A motion was made by T. Fenton, seconded by R. Beauregard to release \$165,000.00 and to retain \$50,000.00 of bond for Site Plan #3-01.

All in favor. So Voted.

10) Adjournment

A motion was made by T. Fenton, seconded by R. Chalifoux and the commission voted unanimously to adjourn the meeting at 10:37 p.m.

Respectfully Submitted,

Kathleen Nichols
Recorder