

**TOWN OF SOMERS
ZONING COMMISSION
P.O. BOX 308
SOMERS, CONNECTICUT 06071**

**ZONING MINUTES
REGULAR MEETING
Monday, March 20, 2006
7:00 p.m. Town Hall**

I. PUBLIC HEARING

a. Continuation: Special Use Permit Application for Gravel Bank, 164 Hampden Road, Grower Direct Farms

Chairman Peter Klein called the continuation of the public hearing to order at 7:02 p.m. Lise Wood recused herself from the hearing. The meeting was opened for comments from the audience.

Henry Broer, 74 Hampden Road, read a letter that he wrote to the Zoning Commission requesting that the gravel operation be limited to 3 days a week, from 9:00 a.m. to 3:00 p.m. The letter also stated he and Mrs. Broer believe that the Zoning Commission currently has adequate information to legally deny the permit application. If the permit is granted, there will be 3 gravel operations within 1/4 mile of each other.

Roger Stedding, 153 Hampden Road, also presented a letter with attachments. He noted that at the first portion of the public hearing, Mr. Van Wingerden commented that any trucks coming or going from the site before 7:00 a.m. or after 5:00 p.m. were not related to the gravel operation. The Zoning Regulations state that no activity related to a gravel operation can take place before 7:30 a.m. or after 5:00 p.m. He submitted photos taken on March 14 and March 15, 2006 showing trucks entering at 6:53 a.m. and leaving at 7:14 a.m. On March 14, 2006, 13 dump trucks were counted going into the operation within the period from 6:55 a.m. to 7:30 a.m. He also presented photos showing the tracking of mud onto Hampden Road on March 17, 2006. Additionally, there are breaks in the screening from the road which have expanded from originally 20 feet in length to now 80 feet.

In 1996 the EPA report listed 19 facilities in Somers that violated their standards. Grower Direct was the only farm included on that list. He listed the various gasses which are emitted from the farm.

He noted that both the Wood Gravel Bank and the Grower Direct operation use the same access road, which would make it impossible to monitor either operation.

He stated that the Zoning Commission should address such issues, as well as the Zoning Enforcement Officer's stop-work orders, prior to considering approval of the application. He requested that the application be denied.

Leonard Van Wingerden, Grower Direct Farms, 164 Hampden Road, explained that his reason for applying for the gravel bank permit is not to run a gravel bank operation, but to clear excess material to create a level surface for adding to his growing area. He began clearing the area believing that he was entitled to do so. However, Mr. Taylor told him that the volume of the gravel being removed from the site required that he apply for a gravel permit. A cease and desist order was issued, but when he spoke to Mr. Pinney and Mr. Taylor regarding the order, he was told that he could continue to remove material while going through the application process. He added that Herb Holden is removing the gravel, so he is somewhat dependent upon Mr. Holden to adhere to the regulations. Mr. Holden has been asked to no longer allow trucks onto the site prior to 7:30 a.m. and as of Tuesday, March 14, 2006, such has been the case. He added that the road is difficult to maintain this time of year because of the freezing and thawing that happens continuously. However, repair work has been done and it is in better shape now. The banging from the trucks is diminished.

Mr. Van Wingerden stated that Grower Direct Farms has an EPA permit to burn No. 2 heating oil in its furnaces. The gases that are emitted are within the state guidelines.

A motion was made by Peter Chipouras, seconded by Rob Martin and unanimously voted to close the public hearing Special Use Permit for Gravel Bank for Grower Direct Farms, 164 Hampden Road at 7:17 p.m.

II. CALL TO ORDER

Chairman Peter Klein called the regular meeting to order at 7:18 p.m. Members Peter Chipouras, Peter Klein, Robert Martin, Lise Wood (no longer recused), and Alternate Member Jill Conklin (seated for Anita Calder) were present and constituted a quorum.

III. MINUTES APPROVAL

A change was made to Page 6 of the March 6, 2006 Zoning Minutes. The surname "Brower" was corrected to "Broer".

A motion was made by Lise Wood, seconded by Peter Chipouras and passed by a vote of 4 in

favor, 0 opposed, 1 abstention (Martin) to approve the March 6, 2006 minutes as amended.

IV. OLD BUSINESS

a. Discussion/Possible Decision: Special Use Permit Application for Gravel Bank, 164 Hampden Road, Grower Direct Farms

Lise Wood recused herself from this item.

After Mr. Klein reviewed with Mr. Martin the previous events regarding the application, the neighbors specific concerns were cited and discussed. Mr. Klein noted that if the days and hours of operation were reduced as suggested, the time necessary to complete the work will be increased.

Mr. Klein read the letter dated March 9, 2006, which Merv Strauss had submitted regarding the application. Also it was noted that David Askew's letter to the Commission requested more information about sediment and erosion control on the site.

Comment was made that a portion of the property containing the gravel road belongs to Wood Gravel and not to Mr. Van Wingerden. The application cannot be approved when a part of the property included in it does not belong to the applicant.

A motion was made by Peter Chipouras, seconded by Jill Conklin, and unanimously voted to continue the discussion at the next meeting.

b. Discussion/Possible Decision: Zoning Commission's Amendment to the Zoning Regulations Section 214.93. Temporary Commercial Uses to Include Uses for Farms

Lise Wood returned to the meeting at this time and commented that people at the March 6, 2006 public hearing seemed confused about the proposed amendment.

Peter Chipouras has researched agricultural tourism and will be sending information to the Commissioners and Patrice Carson prior to the next meeting. A good example of a town dealing with this issue is Woodstock, Connecticut. He commented that Somers Zoning Regulations should include a separate regulation for farms as they are so different from regular commercial enterprises.

Mr. Klein reported that new information dealing with concerns from the last meeting has not yet been received from the Town Attorney.

c. Other - There was no other Old Business.

IV. NEW BUSINESS

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A motion was made by Rob Martin, seconded by Lise Wood and unanimously voted to add a new item to the agenda under New Business.

a. Site Plan Application For Change of Use from Non-Conforming Residential To Commercial, 36 South Road, Jacewicz

Mr. and Mrs. Jacewicz were available to answer questions. Mr. Klein showed the plans for the spa on South Road and explained that a portion of the building on the second floor is set up as an apartment. The applicant would like to take out the apartment and may consider using the room as part of the spa in the future.

Both the Fire Department and the Sanitarian have reviewed the application and signed off on it.

A motion was made by Lise Wood, seconded by Peter Chipouras and unanimously voted to accept the application and refer it to the Planning Commission.

b. Other - There was no other New Business.

VI. DISCUSSION: PLAN OF CONSERVATION AND DEVELOPMENT

A reminder was given that the next POCD meeting will be Monday, March 27, 2006 at 7:00 p.m.

VII. STAFF/COMMISSIONER REPORTS

The Commission reviewed Jim Taylor's Zoning Enforcement Officer's Report dated March 20, 2006 and covering the period of March 5 to March 17, 2006. A motion was made by Rob Martin, seconded by Lise Wood and unanimously voted to accept the report.

VIII. CORRESPONDENCE AND BILLS - None were presented.

IX. ADJOURNMENT

A motion was made by Lise Wood, seconded by Rob Martin and unanimously voted to adjourn the March 20, 2006 Zoning Commission meeting at 7:56 p.m.

Respectfully submitted,

A.P. Calder, Secretary
Secretary

Robin Timmons, Recording

MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING.

Town of Somers Zoning Enforcement Officer
For the Zoning Commission Meeting of March 20, 2006
Covering from 3/05/06 thru 3/17/06 Activities listed by Address

Enforcement activity:

1, 359 Mountain Road. Worthington Pond, LLC. Section 214-87.D. (Sales & consumption of alcoholic beverages .Issued Cease and Desist Order. Cease and Desist Order has been appealed to the ZBA with a hearing set for Sept 14, 2004. 9/20/04, The ZBA hearing has been continued to October 19, 2004. The ZBA voted to uphold the C&D order. Mr. Roulier has appealed the ZBA decision to the Superior Court. Case Pending.

2. 12/06/05, 138 Main Street. M. Redmond. Section 214-98.B. (Failure to obtain Site Plan Approval) Requested Compliance. 2/02/06 Met with Mr. Redmond at Land Use Office. Agreed to give him reasonable time to determine what portions of the building will be use for business.

3/02/06 No Change.

3/17/06. No further action to be taken at this time. Will re-evaluate in the future.

3. 12/01/05. 77 Wood Road. C. Gengenbach. Sections 214.24 (Non-permitted Contractor's Yard) and 214-92.C Non-permitted Storage Container. Requested Compliance.

1/13/06 Mr. Gengenbach has agreed to compliance before February 28, 2006. 2/02/06 No change at this time.

3/01/06 Not fully compliant due to weather conditions. Will follow up.

3/17/06. 90% compliant. Should be fully compliant by April 1, 2006.

4. 16 Birch Hill Dr. R. Mohammah. Section 214-101 (Failure to obtain Zoning Permit for Accessory Structure. Requested Compliance. 9/22/05 Spoke with owner's attorney. They are in process of how to best come into compliance. 10/13/05 No progress on a resolution to this matter. Issued Cease & Desist Order.

11/16/05 Awaiting appeal to expire before taking further action.

11/19/05. Referred file to Town Attorney to commence injunctive action in Superior Court.

12/08/05. Mr. Mohammah has agreed to obtain a Zoning Permit and relocate the building on or before the 2nd week of May 2006. The reason for this delay is winter weather. Will follow up in May.

5. **3/07/06.** 64 Main St. L. Sonski. (THIS ACTION IS SEPARATE FROM ITEM 6 BELOW. Sections 214-98 (Junk Material and 214-60 (Unregistered Vehicles). Referred to Town Attorney for injunctive

action in Superior Court.

6. 2/07/06 64 Main St. L. Sonski. Sections 214-101 (Failure to obtain Zoning Permit for accessory building) and 214-98.A (Failure to comply with Set-Back Requirements). Requested Compliance. **3/15/06.** In process of obtaining permits.

7. 164 Hampden Rd. Growers Direct. Section 214-67 (Removal of Earth Products without Special Use Permit) and 214-101 (Failure to obtain Site Plan Approval for Site Changes and Improvements. 7/14/05 Site plan application in process of being prepared for submission according to Mike Mocko of Ward Engineering. 9/06/05 Spoke with Mike Mocko. Site Plan is approximately 80% prepared. He was advised to expedite the Site Plan Application. 9/16/05 No change. Commission may want consider setting a deadline for the submission of a Site Plan application in order for Growers Direct to avoid Enforcement of the Cease & Desist Order which was issued on May 18, 2005. 10/3/05 Commission to consider deadline for submission of completed Site Plan application. 10/11/05 Sent letter to Growers Direct setting a deadline of October 17, 2005 for submission of Site Plan Application. Subject application was received in the Land Use Department on October 14, 2005.

11/05/05 Commission is anticipating Mr. Van Wingerden or his representative to appear at the November 21, 2005 meeting to present the subject application.

12/01/05_Mr. Van Wingerden has granted to the Commission an extension to February 6, 2006 to apply for a permit for a Gravel Bank.

1/11/06. No change at this time. 1/25/06. Notified M. Mocko's office to be prepared for February 6, 2006 zoning meeting. It was confirmed that he will attend that meeting.

3/02/06. Public hearing scheduled for 3-06/06.

3/17/06. Public Hearing scheduled for 3/20/06.

8. 11/16/05. 343 Hall Hill Road, T. Barnes. Sections 214-98.B.1.(More than one single family dwelling per lot) and 214-98.101 (Failure to obtain Zoning Permit).

11/28/05 Barnes has agreed to cease the residential use of the subject building. Waiting for promised affidavit stating that agreement to close this file.

1/05/06_Resolution of this case is pending Building Code compliance with Building Official.

2/02/06 No change at this time.

3/01/06. Building Official is working with property owner toward compliance.

10. **3/14/06.** 701 Stafford Rd. R. Bourque. Sections 214-98 (Storage of Junk Material) and 214-60 (Unregistered Vehicles). Requested Compliance.

11. 2/01/06. 515 Springfield Rd. M. Bushior. Section 214-98.B. (Storage of Junk Material). Requested Compliance.

3/02/06. About to commence further enforcement action.

3/15/06. Issued Cease and Desist Order.

Respectfully submitted:

James R. Taylor

Zoning Enforcement Officer