

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

**ZONING MINUTES
REGULAR MEETING
April 3, 2006 7:00 p.m.
Town Hall**

I. CALL TO ORDER

Chairman Peter Klein called the regular meeting to order at 7:05 p.m. Members Anita Calder, Peter Klein, Lise Wood, and Alternate Members Jill Conklin (seated for Peter Chipouras) and Wes Smith (seated for Rob Martin) were present and constituted a quorum. Town Planner Patrice Carson and Zoning Enforcement Officer Jim Taylor were also present.

II. MINUTES APPROVAL

A motion was made by Lise Wood, seconded by Jill Conklin and unanimously voted to approve the March 20, 2006 minutes as presented.

III. 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 agenda item.

The Land Use Office has received proof from the applicant of the exchange from Tom Wood of the property transgressed by the access road. The document received was not notarized. It was suggested that in addition to this document, either a notarized deed showing a formal transfer of the property or an easement granting temporary use of the road be required.

Town Engineer Merv Strauss has approved a bond amount of \$12,000.00 for this project.

Discussion followed about the public hearing and comments received from the audience. Neighbors concerns over the noise and traffic as well as non-conformity with the regulated hours of operation were specific reasons cited for application denial. It was also suggested that the hours of operation be limited to 9 a.m. to 3 p.m. 3 days per week.

Mrs. Carson explained that the application will come up for renewal again in June. At that time, any violations can be addressed and, if necessary, renewal denied.

Mr. Taylor noted that one issue mentioned at the hearing was that the access road is not properly maintained. Road work has since been done and the situation is better now. He will continue to monitor the area.

Residents were also upset about mud and debris being tracked onto the town road. Discussion followed regarding the possibility of increasing the tracking pad length to reduce tracking onto the town road. Mr. Taylor commented that if the current tracking pad is maintained properly, no addition to the tracking pad should be necessary.

The consensus of the Commission was that operating hours should initially be set according to regulations; i.e., 7:30 a.m. to 5:30 p.m., Monday through Friday and 8:00 a.m. to noon on Saturdays. No activity is allowed on holidays. It will be stressed that there is to be no activity on the site, including trucks entering or leaving, outside of designated hours and if the trucks begin queuing up before 7:30 a.m., then the applicant will be in violation.

A motion was made by Jill Conklin, seconded by Anita Calder and unanimously voted to approve Grower Direct Farms' application for a Special Use Permit for a gravel bank at 164 Hampden Road, conditional on 1) the presentation of a \$12,000.00 performance bond, 2) proof of either the formal transfer of property from Wood to Grower Direct Farms for the access road, or proof of an easement from Wood to Grower Direct Farms granting temporary use of the property for the access road, 3) the permit is valid through June 30, 2006. The Commission reiterated the hours of operation as 7:30 a.m. to 5:30 p.m. Monday through Friday and 8:00 a.m. to noon on Saturdays with no holiday hours.

Lise Wood returned to the meeting at this time.

b. Discussion/Possible Decision: Zoning Commission's Amendment to the Zoning Regulations Section 214-93. Temporary Commercial Uses to Include Uses for Farms

The Commission felt that the proposed amendment presented at the public hearing needs to be revised. Several comments were made at the hearing and at last week's POCD meeting against waiving the public hearings. Therefore, Mrs. Carson suggested that the Commission should only amend that part of 214-93.A.(3) which would require a public hearing for every renewal.

The current regulation reads that special use permits may be renewed annually and a public hearing may be required by the Commission. The suggested change in wording is: The Special Use Permit may be renewed annually after a public hearing is held by the Commission.

Since this change was part of the public hearing, and the Commission can amend all or part of a proposed regulations, no new hearing on this matter is required. The notice requirement will mandate that a public hearing be held for the renewal process of any Special Use Permit.

A motion was made by Lise Wood, seconded by Anita Calder and unanimously voted to amend Zoning Regulations Section 214-93.A.(3) to read as follows: "The Special Use Permit may be renewed annually after a public hearing is held by the Commission." to be effective the day after publication in the

newspaper.

c. **Other** - There was no other Old Business.

IV. **NEW BUSINESS** - No New Business was presented.

V. **DISCUSSION: PLAN OF CONSERVATION AND DEVELOPMENT**

Everyone has reviewed the Agricultural Zoning packets distributed by Mrs. Carson including New York State's regulation and those from a number of Connecticut communities and a brief discussion followed about the definition of a farm as compared with the Town of Somers current definition. Also discussed was what determines an accessory use.

The next POCD meeting is scheduled for April 24, 2006, at 7:00 p.m.

VI. **STAFF/COMMISSIONER REPORTS**

Jim Taylor presented his Zoning Enforcement Officer's Report for the period of March 19, 2006 to March 31, 2006 and the Commissioners reviewed it with him. In addition to the items included in the report, concern was expressed over a basketball school being advertised by Kara Wolters. Mr. Taylor will look into this and report back at the next meeting.

A motion was made by Lise Wood, seconded by Jill Conklin and unanimously voted to accept Mr. Taylor's report.

VII. **CORRESPONDENCE AND BILLS**

A letter dated March 29, 2006 was received from Henry and Patricia Broer suggesting that the Zoning Commission consider revising the regulation regarding hours of operation for earth removal and filling to allow for 40 hours per week only. Their reason for the change is that businesses usually run 40 hours per week and such a regulation change would ensure that such operations do not exceed such hours or infringe upon the day-to-day lifestyle of the neighborhood. Mrs. Carson was asked to put this proposal on the next agenda.

A bill was received from the Journal Inquirer for \$251.84 for the March 6, 2006 public hearing. A motion was made by Lise Wood, seconded by Anita Calder and unanimously voted to pay the bill.

VIII. **ADJOURNMENT**

A motion was made by Lise Wood, seconded by Wes Smith and unanimously voted to adjourn the April 3, 2006 Zoning Commission meeting at 8:25 p.m.

Respectfully submitted,

A.P. Calder, Secretary
Secretary

Robin Timmons, Recording
Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING.

Town of Somers Zoning Enforcement Officer
For the Zoning Commission Meeting of April 3, 2006

Covering from 3/19/06 thru 3/31/06 Activities listed by Address

Enforcement activity:

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Page 1 of 3.

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. **3/21/06.** 663 Main St. P. Smith. Sections 214-98 (Storage of Junk Material) and 214-60 (Storage of Unregistered Vehicles). Issued Cease & Desist Order.

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.

3/29/06. Permits obtained. Violation Eliminated.

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.

3/27/06. Violation Eliminated.

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.

3/29/06. Permit for structure has been issued. Structure to be moved to comply with Set-Back requirements.

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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.

3/29/06. Issued Cease & Desist Order.

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.

3/29/06. Pending 30 day appeal period.

12. **3/22/06.** 682 Springfield Rd. T. Nguyen. Sections 214-57 (Sign Violation) and 214.98.B. (Non-permitted Business. Requested Compliance.

13. **3/22/06.** 3 Turnpike Rd. R. Dembinske. Section214-98..B.22. (Motor Vehicle Sales in Residential Zone) Requested Compliance.

Respectfully submitted:

James R. Taylor
Zoning Enforcement Officer