

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

**ZONING MINUTES  
REGULAR MEETING  
Monday, June 19, 2006  
7:00 p.m. Town Hall**

**I. PUBLIC HEARINGS**

Chairman Peter Klein called the public hearings to order at 7:00 p.m. Town Planner Patrice Carson read the legal notice.

**a. Special Use Permit Application for Gravel Bank, Egypt Road, Charter**

Mr. Charter presented plans for the site, explaining that the gravel bank contains two sections, one near Egypt Road on the Ellington side, and one near South Road on the Somers side for which he came before the Commission in October. The entire site is moving along nicely and he has dug out the gravel on the Ellington side and now there are stockpiles on the Somers side. As of two weeks ago, the back portion has been reclaimed and now it is necessary to come back and fill in the washes. He intends to seed in the fall and expects the site will be completed by October 1, 2006.

Mr. Klein asked about the possibility of using hydroseeding along the Egypt Road area, but Mr. Charter felt that it may not take. The consensus of the Commission was that unless the Town receives complaints, the applicant will be given the time to plant seed closer to the fall.

Mrs. Carson reported that the Town Engineer has visited the site, evaluated its condition and approved of the bond estimate set at \$21,600.00. The Planning Commission has considered the application and given it a positive recommendation.

There were no comments from the audience and a motion was made by Jill Conklin, seconded by Lise Wood and unanimously voted to close this public hearing at 7:10 p.m.

**b. Special Use Permit Application for Nursery School/Day Care, 399 Billings Road, Wohlers**

Mr. Wohlers presented revised plans. He explained that the driveway has been moved to the west and visitors will enter and leave from the same entrance in a circular pattern. The current driveway is 20 feet long and will be expanded to no more than 23 feet.

Mrs. Carson explained that the Planning Commission has reviewed the application and recommended a denial without prejudice. They had no concerns about the daycare itself, only with the line of sight issue.

A question arose as to the line of sight being restricted by vegetation as noted as in Mr. Strauss's comments. Mr. Wohlers explained that the sightline is restricted by trees which are not his, but are his neighbors. Concern for public safety was discussed and it was suggested by Mrs. Carson that if some of the tree growth is within the Town's right-of-way, then it can be cleared by the town annually. She offered to discuss this with Public Works.

Mr. Kuzman suggested that once the tree clearing was done, a second report might be requested from Mr. Strauss ensuring that his concerns are alleviated.

**Donald Deveau, 7 Lindell Drive**, requested that if any of his trees are an issue on Billings Road, that they be trimmed only, and not removed. Mrs. Carson said she and the DPW would meet with Mr. Deveau prior to any trimming.

There were no other comments from the audience and a motion was made by Lise Wood, seconded by Jill Conklin and unanimously voted to close this public hearing at 7:29 p.m.

**c. Special Use Permit Application for Gravel Bank, South Road, Bordeaux Farms**

Cliff Bordeaux presented plans and explained that the work is basically finished on Phases 9 and 10 and they are getting ready to start on Phase 11 and expect to seed when the weather permits. There are a few stockpiles in Phases 6, 7, and 8.

Mrs. Carson noted that the Town Engineer visited the site in February, evaluated its condition and approved of the bond estimate set at \$24,730.00. The Planning Commission has considered the application and given it a positive recommendation.

There were no comments from the audience and a motion was made by Terry Kuzman, seconded by Anita Calder and unanimously voted to close this public hearing at 7:34 p.m.

**d. Special Use Permit Application for Gravel Bank, South Road, Pleasant View Farms Realty**

Jeff Lipton presented the plans noting that this is probably the last year for the bank. The stockpiles are slowly being eliminated and are situated at the south end of the property.

Mrs. Carson reported that the Town Engineer visited the site and finds the \$39,000.00 bond acceptable. The Planning Commission has reviewed the application and recommended approval.

A motion was made by Wes Smith, seconded by Terry Kuzman and unanimously voted to close the public hearing at 7:38 p.m.

Lise Wood recused herself at this time.

**e. Special Use Permit Application for Gravel Bank, Stafford/Root/Wood Roads, Wood Gravel Operation LLC**

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Joe Russo from J.R. Russo and Associates presented plans with Bruce Wood. Mr. Russo explained that new plans have been submitted with erosion control as requested. Mr. Wood explained that 80 percent of the hydroseeding on the berm has been completed. Check dams have been installed. As the stockpiles are depleted, they will be moved south.

Mrs. Carson explained that the Planning Commission reviewed the application and recommended approval pending the Town Engineer's review and acceptance of the erosion control plan and the bond figure. Mr. Strauss has since sent a review dated May 17, 2006 noting that the newly submitted plans are much better and the bond estimate of \$77,640.00 is acceptable.

**Linda Chrzanowski, 312 Root Road**, submitted a letter and spoke in opposition to the bank. She commented that the west side of her home has sustained sand-blasting damage and her porch finish has required annual repairs. In addition, the gutters fill with dirt each year, particularly in August, because of the dust from the applicant's gravel bank.

**Alfred Kibbe, 280 Root Road**, explained that when the wind blows from the west or northwest, his gutters fill with sand from the applicant's bank.

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Mr. Russo explained that the erosion and dust will no longer be an issue once the applicant has completed the work in accordance with his original plans. Discussion followed and it was noted that should the applicant not receive approval of the permit, no further work can be done on the site and the dust and erosion will continue.

**Roger Stedding, 153 Hampden Road**, commented that he is also in opposition of permit because of the vehicle activity which has been added to the access road along Hampden Road. He explained that there are pre-existing, non-conforming uses on the site already which should be addressed prior to approval.

A motion was made by Jill Conklin, seconded by Anita Calder and unanimously voted to close this public hearing at 8:05 p.m.

**f. Special Use Permit Application for Gravel Bank, 164 Hampden Road, Grower Direct Farms**

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Leonard Van Wingerden was present to answer questions and noted that the plans have not been revised since they were just recently submitted for approval a couple months ago. The gravel removal is about 50% complete and depending upon the market conditions he estimates that the project will be finished in about 18 months.

Discussion followed about Mr. Strauss's concerns in his letter of June 19 regarding the steep slope and the potential for blasting. Mr. Van Wingerden explained no blasting is anticipated and that the slope will be smoothed out and trees protected or removed.

There is about 100 feet of asphalt that needs to be patched along the access road and there are a lot of potholes to be filled in. Mr. Van Wingerden explained that asphalt work will be done on June 28<sup>th</sup> and

anticipates that there will be about 230 feet of roadway that will be repaved.

**Aniela Stedding, 153 Hampden Road**, spoke in opposition to the application and read a letter she had written to the Commission. The letter contained concerns about the dust and traffic resulting from the operation day and night, and all week long.

**Henry Broer, 74 Hampden Road**, commented that he had many of the same concerns as Mrs. Stedding. He added that the State of Connecticut DEP has now become involved and he suggested that the gravel activity be limited to 5 days a week, with a specific time limit.

**Roger Stedding, 153 Hampden Road**, spoke in opposition to application and noted the various Zoning Regulations which the applicant has broken with respect to the gravel access road. He submitted his comments for the Commission's review and showed video tapes he had taken of trucks and vehicle activity on the site. He suggested that only gravel trucks be allowed to use the access road. He added that he has no complaints about Grower Direct's nursery operation, but is mainly upset with the increase in traffic and the types of vehicles coming and going from the site.

A motion was made by Jill Conklin, seconded by Anita Calder and unanimously voted to close this public hearing at 8:58 p.m.

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Lise Wood returned to the meeting. The Commission took a short recess.

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**II. CALL TO ORDER**

Chairman Peter Klein called the regular meeting to order at 9:04 p.m. Members Anita Calder, Jill Conklin Peter Klein, Lise Wood and Alternate Members Terrance Kuzman and Wesley Smith (seated for Robert Martin) were present and constituted a quorum. Town Planner Patrice Carson was also present.

**III. INTERVIEW DESIGN REVIEW BOARD CANDIDATES**

Mrs. Carson reported that it has been difficult finding people who want to serve on the Design Review Board. This item was deferred as there were no candidates to interview.

**IV. MINUTES APPROVAL**

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A motion was made by Lise Wood, seconded by Jill Conklin and unanimously voted to approve the minutes of the June 5, 2006 meeting as written.

**V. OLD BUSINESS:**

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**a. Discussion/Possible Decision: Special Use Permit Application for Nursery School/Day Care, 399 Billings Road, Wohlrs**

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Concern was expressed about the traffic situation, noting that it is currently a difficult spot and it is

important to be sure that the line of sight is maintained. It was suggested that the Town Planner meet with DPW about the sightline and a traffic sign warning of children ahead be placed on Billings Road.

A motion was made by Lise Wood, seconded by Wes Smith and unanimously voted to approve Wohlers' Special Use Permit application for a Nursery School/Day Care at 399 Billings Road with the conditions that the Town remove what vegetation they can that interrupts the line of sight and the applicant be required to install a "Children Ahead" sign.

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**b. Discussion/Possible Decision: Special Use Permit Application for Gravel Bank, South Road, Bordeaux Farm**

After brief discussion, a motion was made by Wes Smith, seconded by Anita Calder and unanimously voted to approve Bordeaux Farm's Special Use Permit application for a gravel bank on South Road with a \$24,037.00 bond. The permit will be valid from July 1, 2006 to June 30, 2007.

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**c. Discussion/Possible Decision: Special Use Permit Application for Gravel Bank, Egypt Road, Charter**

After brief discussion, a motion was made by Lise Wood, seconded by Wes Smith and unanimously voted to approve Charter's Special Use Permit application for a gravel bank on Egypt Road with the condition that the area on Egypt Road be reseeded by October 1, 2006. The bond was set at \$21,600.00 and the permit will be valid from July 1, 2006 to June 30, 2007.

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**d. Discussion/Possible Decision: Special Use Permit Application for Gravel Bank, South Road, Pleasant View Farms Realty**

After brief discussion, a motion was made by Wes Smith, seconded by Jill Conklin and unanimously voted to approve Pleasant View Farms Realty's Special Use Permit application for a gravel bank on South Road with a \$39,000.00 bond. The permit will be valid from July 1, 2006 to June 30, 2007.

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 At this time, Lise Wood recused herself and Terry Kuzman was seated.

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**e. Discussion/Possible Decision: Special Use Permit Application for Gravel Bank, Stafford/Root/Wood Roads, Wood Gravel Operation LLC**

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 After some discussion, a motion was made by Jill Conklin, seconded by Terry Kuzman and unanimously voted to approve Wood Gravel Operation LLC's Special Use Permit application for a gravel bank on Stafford/Root/Wood Roads with the conditions that the hydro-seeding be completed, the stock-piling be moved to the south of the premises, and the bond be set at \$77,600.00. The permit will be valid from July 1, 2006 to June 30, 2007.

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

- After some discussion, a motion was made by Jill Conklin, seconded by Wes Smith and unanimously voted to approve Grower Direct Farms' Special Use Permit application for a gravel bank at 164 Hampden Road with the conditions that 1) the hours of operation for the gravel bank be reduced to 8:30 a.m. to 5:30 p.m. Monday through Friday, with no operation on Saturday, Sunday or holidays, 2) Grower Direct will repair the asphalt apron as designated in the Zoning Enforcement Officer's June 13, 2006 letter, 3) the access road needs to have a suitable means for constant dust control in effect also in accordance with the ZEO's letter dated June 13, 2006, 4) an additional 200 feet of asphalt shall be installed just beyond where the asphalt currently stops and road resurfacing needs to be completed by July 15, 2006, and 5) the bond amount is set at \$25,000.00. The permit will be valid from July 1, 2006 to June 30, 2007.

Lise Wood returned to the meeting at this time and Terry Kuzman was unseated.

- **g. Zoning Referral: Site Plan Application for Shopping Center, 85 South Road, Somers Crossing LLC**

- Mrs. Carson explained that the Planning Commission reviewed the application and with their time for review running out, they sent back a recommendation of denial without prejudice because there is much information requested that has not yet been provided. Mrs. Carson has now received a letter from the applicant granting the Zoning Commission an extension of up to 65 days.

A motion was made by Anita Calder, seconded by Lise Wood and unanimously voted to accept the applicant's extension of 65 days and refer the application back to the Planning Commission for their further review.

- **h. Discussion/Review of Proposed Amendment to the Zoning Regulations for Change in Allowable Building Height**

Mrs. Carson distributed copies of comments and regulations received from other Towns regarding the proposed amendment. The building height restriction is 35 feet in most towns, but in actuality buildings end up being lower or in some cases taller because of the way they are measured. Many towns refer to the building code. She will speak with the Building Official about the Building Code requirements and report at the next meeting.

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

- **VI. NEW BUSINESS**

- A motion was made by Lise Wood, seconded by Wes Smith and unanimously voted to add the following item to New Business:

- **a. Zoning Commission's Proposed Amendment to the Zoning Regulations Sections 214-4. Definitions, 214-84. & 214-85.B. of Article XV Flood Damage Prevention, To Update Flood Requirements**

Mrs. Carson explained that after reviewing the Town's Zoning Regulations, the State wants more information in the regulations regarding flood plains. This item needs to be referred to the Planning Commission, CRCOG and the Town Attorney and a public hearing dated needs to be set.

A motion was made by Lise Wood, seconded by Jill Conklin and unanimously voted to refer the flood regulation amendments to the Planning Commission, CRCOG and the Town Attorney and to set a public hearing date on July 24, 2006 at 7:00 p.m. in the Town Hall.

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

The next Plan of Conservation and Development meeting has been set for June 26, 2006 at 7:00 p.m.

**VIII. STAFF/COMMISSIONER REPORTS**

After brief discussion a motion was made by Jill Conklin, seconded by Lise Wood and unanimously voted to accept the Zoning Enforcement Officer's Report dated June 5, 2006 to June 16, 2006.

**IX. CORRESPONDENCE AND BILLS**

A quarterly newsletter was received from the Connecticut Federation of Planning and Zoning Agencies.

A bill was presented from the Journal Inquirer in the amount of \$283.32 for the meetings on April 17 and May 15, 2006, and the public hearing on May 15, 2006.

A motion was made by Lise Wood, seconded by Anita Calder and unanimously voted to pay this bill. The Commission also authorized the Town Planner to pay all others bills received through the end of the month.

**X. ADJOURNMENT**

The Commission expressed much gratitude to Peter Klein for his exemplary service and outstanding leadership as outgoing Chairman. A motion was made by Anita Calder, seconded by Jill Conklin and unanimously voted to adjourn the June 19, 2006 Zoning Commission meeting at 9:53 p.m.

Respectfully submitted,

A.P. Calder, Secretary

Robin Timmons, Recording Secretary

***MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING.***

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Town of Somers Zoning Enforcement Officer

## For the Zoning Commission Meeting of June 19, 2006

Covering from 6/05/06 thru 6/16/06 Activities listed by AddressEnforcement 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. 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.  
 4/13/06. In 30 day appeal period. Appeal period expires 30 days from date of receipt which was 4/04/06.  
 5/10/06. Very little progress made to compliance. Will consider legal action within two weeks.  
 5/24/06 Referred to Town Attorney for injunctive action.  
**6/14/06.** Town Attorney gave Mr. Smith until 7/01/06 to begin schedule of compliance.

3. 4/03/06. 63 Bradfield Dr. M. Kloter. Section 214-98.A. (Failure to meet Set-Back requirements. Requested compliance.  
4/27/06 Mr. Kloter is in process of application for a variance to the ZBA.  
**6/15/06.** ZBA Approved Variance for placement of building.

4. **6/12/06.** 57 Billings Rd. J. Thompson. Section 214-101 (Failure to Obtain Zoning Permit). Request Compliance.

5. **6/13/06.** 164 Hampden Rd. Grower Direct Farms. Failure to be consistent in Dust Control on access road. Failure to keep the Gravel Portion of Access Road in smooth condition to reduce noise. Failure to properly maintain paved area of access road at intersection of Hampden Road. Requested Compliance.

6. 5/31/06. 107 Billings Rd. J. Petkis Jr. Section 214-101. (Failure to obtain Zoning Permit. Requested Compliance.  
**6/13/06.** In Process of applying for permits.

7. 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.  
4/13/06. Pending 30 day Appeal Period.  
4/28/06 In the process of compliance and should be in total compliance by May 22, 2006.  
 5/17/06. Referred to Town Attorney for injunctive Action.  
**6/14/06.** Town Attorney gave Mr. Bourque until July 1, 2006 to begin schedule of compliance.

8. 5/31/06. 31 Sunshine Farms Dr. D. Brierley. Section 214-101 (Failure to obtain Zoning Permit and Section 214-38.G. (Failure to comply with 75 foot set-back requirement.. Issued Cease & Desist Order.

**6/13/06. Violation Eliminated.**

**9. 5/31/06. 423 Billings Rd. R. Bruch. Section 214-101 (Failure to obtain Zoniong Permit). Requested Compliance.**

**6/13/06. In process of applying for permit.**

Respectfully submitted: James R. Taylor, Zoning Enforcement Officer