

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

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

I. PUBLIC HEARINGS:

Acting Chairman Anita Calder called the public hearings to order at 7:00 p.m. Patrice Carson read the legal notice for all three hearings.

Jill Conklin recused herself from the meeting at this time.

a. Special Use Permit Application for Home Occupation for Real Estate Office, 3 School Street, Conklin

Applicant Jill Conklin presented a map of the area as well as a map of the property. She is seeking to utilize a portion of her home as a part-time real estate office where she can meet with clients for the purpose of selling, managing and renting real estate. Office hours would range between 9:00 a.m. and 5:00 p.m., but would not be continuous. Most of her business is done either outside of the office or at her other office at 141 Hazard Avenue in Enfield.

She will use a 12' x 16' area, 192 square feet, and would increase to 15' x 20', 300 square feet, hopefully within a year. This would be under the maximum allowable square footage of 25%, or 341 square feet.

She noted that there was previously a barbershop at this location.

Jill Conklin does not intend to have any employees, although regulation allows that she could have one employee.

She would be using a portion of the driveway area for parking and no street parking will be available.

There is currently a 24-foot curb cut along Main Street which will be reduced to 12 feet. She has spoken with the State regarding access, and they have given her permission to move forward with the project, but requested involvement in the planning process.

The Planning Commission has given a referral of approval stating that they think the use is well suited to the area as it was previously used as a barber shop, and fits within the POCD as a mixed use.

There were no comments from the audience. A motion was made by Lise Wood, seconded by Terry

Kuzman, and unanimously voted to close this portion of the public hearing at 7:10 p.m.

Jill Conklin rejoined the Commission at this time.

b. Zoning Commission's Application to Amend Zoning Regulations to Impose a Temporary Moratorium on All Applications for Non-Residential Uses Located in the Commercial Zone Along Main Street (CT Route 190) From the Maple Street and Shaker Road Intersection to the School Street and Hall Hill Road (CT Route 186) Intersection

Mrs. Carson explained that there is a proposed temporary amendment to Section 214-98.E. of the Zoning Regulations for a temporary moratorium on all non-residential applications for the property in the Commercial Zone along Main Street (CT Route 190) from the Maple Street and Shaker Road intersection to the School Street and Hall Hill Road (CT Route 186) intersection as shown on a map. The moratorium would not affect residential uses.

This application has resulted from the Route 190 Corridor Study and the Plan of Conservation & Development (POCD) in which consideration was given to potential development of the Somersville area along Route 190. The question has arisen about how to best serve the residential development in the area, including both the age restricted housing and potential mill development, and the existing housing in the area. The goal of the moratorium is to enable the Town to codify the various aspects of development, such as uses, architectural designs, landscaping, sidewalks, parking, etc. before potential builders begin making application. The suggested moratorium time frame is nine months. Should the necessary work be done before nine months, the moratorium could be lifted sooner.

Any existing commercial properties will be allowed to stay, but business owners will not be able to make any new applications until the moratorium is lifted.

The Planning Commission has given a referral of approval stating that they think this is what was called for in the POCD.

Carol Pyne, 46 Sunset Drive, spoke in favor of the application.

David Pinney, 214 Maple Street, spoke in favor of establishing the moratorium. He noted that there are no applications in the works and the opportunity to work without any pressure from pending applications would certainly help and also show that the town is actively involved in the development to be brought into town.

A motion was made by Lise Wood, seconded by Terry Kuzman, and unanimously voted to close this portion of the public hearing at 7:25 p.m.

Lise Wood recused herself at this time.

c. Application for Modification of Special Use Permit Application for Gravel Bank, 164 Hampden Road, Grower Direct Farms

Leonard Van Wingerden explained that the gravel bank operating hours were limited by the Town. They were originally approved as 7:30 a.m. to 5:30 p.m., which are the hours given to gravel operations within the town as set forth in the Zoning Regulations. However, the hours were changed for this operation to **8:30** a.m. to 5:30 p.m. when the permit was renewed. One less hour in the morning has been an economic hardship for Herb Holden, the operator of the pit, because he regularly begins work between 7:00 and 7:30 a.m. and since this modification there has been very little activity in his pit. Secondly, Van Wingerden's property is also used by Woods Gravel Operation to traverse through to their property. And, thirdly, he thinks that the hour change is difficult to enforce because no one can know whether the trucks coming from his property are from Woods Gravel operation or from Grower Direct's operation.

Mrs. Carson explained that the Planning Commission at first did not want to give a referral either way, believing that the hours of operation were not something within their purview, although the traffic safety aspect might be. So, the Planning Commission has sent a referral of denial because they felt that the Zoning Commission had put a lot of thought into their original decision, with the concerns of more trucks and safety, and they did not believe that this decision should now be changed. Mrs. Carson clarified the statutes which say that because of this negative referral, the Zoning Commission will need a vote of 4 in favor to pass the application for modification.

Roger Stedding, 153 Hampden Road, spoke in opposition to the application. He noted that the Zoning Commission had listened to the neighbors concerns previously and acted with compassion towards their requests when imposing the 8:30 a.m. hour. However, he has not noticed any change in the hours of operation and he feels that the applicant does not comply with any orders issued by the town. Even when a Cease and Desist Order was given, he saw no change.

He presented a history of the activities on the applicant's property as they pertain to the Zoning Commission, citing the various public hearings and noting various comments made at them. He noted that it was stated by Attorney John Parks at one of the public hearings for the Wood's Gravel operation that most of the traffic would be heading north on Hampden Road and therefore would have minimum wear and tear on the roads. However, it has turned out that most of the traffic is heading south on Hampden Road, which creates a nuisance. He added that the Commission based its decisions on the information presented to them, but unfortunately, the information they receive is true only for a short time, and then it changes.

He also noted that the Woods operation has been going on for 16 years. Originally it was going to only take 5 years.

He noted that somehow the trucks are getting into the gravel operations and leaving by 7:30 a.m., which indicates they must be beginning prior to the operating hours.

Anita Calder asked Mr. Stedding how this has affected his life. He stated that it has been very disruptive to his life and to his wife's as well. They feel as if they are constantly waiting for the "other shoe to drop".

He noted that they have improved both of the intersections where Woods had a safety issue – Wood Road

and Turnpike Road, and the Stafford Road and Hampden Road intersections, but they never re-considered another entrance to the operation.

He was asked what would help and he noted that maintaining the gravel road would be a tremendous help and also enforcing the hours of operation would help.

Henry Broer, 74 Hampden Road, spoke in opposition to the application, noting that he had come before the Commission as well as spoken to the Selectmen and Town Planner on various occasions. He asked why the Commission would consider making a change to the application if the current application was not being complied with.

He noted that since February 2006 there have been convoys of Herb Holden trucks coming down Hampden Road. This sudden change in the volume of trucks is very disturbing to him. They have been coming before 8:30 a.m. consistently since June. He has the impression that Grower Direct will do whatever it wants to do whenever it wants to do it, and he requests that the Town give residents a break.

Leonard Van Wingerden explained that when he originally began taking material out so that he could increase his growing area, he did so under normal agricultural operations for 5 or 6 months. Then Zoning Enforcement Officer, Jim Taylor, told him that he needed stop operating a gravel bank operation without a permit, but Mr. Van Wingerden explained to him that he was not operating as a gravel operation, just removing material for the purpose of expanding his growing area. This went on for a while, but then Mr. Taylor told him that he had to apply for a gravel operation permit in order to continue. So he did so in April, with assurance from Mr. Taylor that approval would be received. Approval was received, but then he had to reapply in June.

Prior to applying, there was no restriction on their hours because they operated as an agricultural operation. When he received notice in June that the hours had been modified, he thought it was a typo. When the original application was made, people presented complaints about the hours, but he was granted the same hours as the other gravel operations in town. He added that this is the reason that the hours of operation have not been consistent or have appeared at times to be outside of what was regulated. In the last 3 months, very little gravel has been taken out. However, 30 to 40 loads of materials have been brought in to repair the gravel road.

If he had known that the hours of operation would be restricted as they are now, he would have not applied for a special use permit for a gravel bank operation but would have continued as an agricultural operation.

Mr. Kuzman asked Mr. Van Wingerden if most of the material pulled out of the area was from his bank or from Woods, and Mr. Van Wingerden replied that most of the material being taken out is primarily from his bank. Mr. Kuzman also asked if Mr. Van Wingerden was aware of Mr. Holden pulling material out of his bank before 8:30 a.m. at this time. Mr. Van Wingerden stated that he has not done so before 8:30 a.m. for the last 2 months in obedience to the regulated hours. However, he has been bringing material prior to 7:30 a.m. for the road repair.

Mrs. Calder asked about the street repair and the condition of the road. Mr. Van Wingerden stated that he

received a letter from the Zoning Enforcement Officer in May requesting him to pave an additional 50 feet of paving to the entrance. Also, he requested that 200 feet of the driveway be paved along a section of the driveway that was very soft and sand was being carried onto the road. In response to this, they did pave the 50-foot section, as well as a 238-foot section of the driveway. This has served to make the road much better.

Mrs. Carson noted that the paving was part of the conditions requested in June. She also noted that the two intersections were improved as Mr. Stedding noted, but had nothing to do with the gravel banks. The issue of access for Woods was the concern about the narrowness of Wood Road along certain areas and the unsuitability of the road to handle large trucks. Also, Hampden Road was built as a state road, and therefore more capable to carry large trucks. Mrs. Carson also noted the difficulty in enforcement of which trucks are operating out of which banks.

A motion was made by Jill Conklin, seconded by Terry Kuzman, and unanimously voted to close the public hearing at 8:02 p.m.

Lise Wood returned to the meeting at this time.

II. CALL TO ORDER

Acting Chairman Anita Calder called the regular meeting to order at 8:03 p.m. Members Anita Calder, Jill Conklin, Wes Smith, Lise Wood, and Alternate Member Terry Kuzman (seated for Rob Martin) were present and constituted a quorum. Town Planner Patrice Carson was also present.

III. INTERVIEW DESIGN REVIEW BOARD CANDIDATES

No new candidates were present. Mrs. Carson reminded the Commissioners to please contact her should they know of any potential candidates.

IV. MINUTES APPROVAL

A change was made to Page 2, Item I, second paragraph, second sentence: Removed the word “the” before “much of her”. A motion was made by Lise Wood, seconded by Jill Conklin and unanimously voted to approve the November 6, 2006 Zoning Commission minutes as amended.

V. OLD BUSINESS

a. Discussion/Possible Decision: Special Use Permit Application for Home Occupation for Real Estate Office, 3 School Street, Conklin

Jill Conklin recused herself at this time. Wes Smith asked about a sign, and it was noted that any sign would require a separate zoning permit, but was allowed. A motion was made by Lise Wood, seconded by Terry Kuzman, and unanimously voted to approve Conklin’s Special Use Permit Application for a home occupation for a real estate office at 3 School Street.

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b. Discussion/Possible Decision: Zoning Commission's Application to Amend Zoning Regulations to Impose a Temporary Moratorium on All Applications for Non-Residential Uses Located in the Commercial Zone Along Main Street (CT Route 190) From the Maple Street and Shaker Road Intersection to the School Street and Hall Hill Road (CT Route 186) Intersection

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A question arose as to the use of the word "Temporary" with the application. Mrs. Carson explained that this is meant to show that the moratorium would not be permanent and the nine-month period was the recommendation being made, but it could be for a shorter period if necessary.

A motion was made by Terry Kuzman, seconded by Lise Wood, and unanimously voted to amend Section 214-98. E. of the Zoning Regulations by adopting a temporary moratorium for a period of nine months from the effective date of this regulation on all applications for non-residential uses located in the commercial/business zone located along Main Street in conformance with the map presented at the hearing which begins at the easterly side of the intersection of Shaker Road and Maple Street and ends on the westerly side of the intersection of Hall Hill Road and Main Street. This regulation will become effective on November 23, 2006.

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

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Terry Kuzman spoke against approving the application, noting that the Commission's previous decision was a good one and also took into consideration the neighbor's concerns.

Mrs. Carson asked if the Commission's decision might be different if Woods and Grower Direct decided to exchange hours of operation, and would this perhaps make a difference and resolve some of the difficulties.

Jill Conklin stated that the difference in hours for Grower Direct and Woods Gravel is not very consistent and does make it very difficult to keep track of the situation. However, she would think that Mr. Holden would have respect for Mr. Van Wingerden, who is his client, and his need to abide by the Town's regulations.

Mrs. Conklin also noted that she was at the Planning Commission meeting at which this item was discussed and that Commission appeared to not really care one way or the other, but had presented a comment only because they were required by statute to do so.

A motion was made by Jill Conklin to approve Grower Direct Farms' application to modify the Special Use Permit and the hours of operation for the Gravel Bank at 164 Hampden Road to 7:30 a.m. to 5:30 p. m., Monday through Friday. There was no second to the motion. The motion died.

A motion was made by Terry Kuzman, seconded by Wes Smith to deny Grower Direct Farms' application to modify the Special Use Permit, leaving the hours of operation as they currently are, 8:30 a.m. to 5:30 p. m., Monday through Friday. The vote was 3 in favor, 1 opposed (Conklin), and no abstentions. The

motion carried.

Lise Wood returned to the meeting at this time.

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d. Other - No other Old Business was presented.

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VI. NEW BUSINESS - No other New Business was presented.

VII. DISCUSSION: PLAN OF CONSERVATION AND DEVELOPMENT

Mrs. Carson reported that they are working on the cistern regulations and they hope to have a meeting in January.

VIII. STAFF/COMMISSIONER REPORTS - No reports were given.

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IX. CORRESPONDENCE AND BILLS

Mrs. Carson noted that at the last meeting a letter was received from Roger Stedding of 153 Hampden Road regarding activity at Grower Direct Farm. The Commission requested that Mrs. Carson forward the letter to the Zoning Enforcement Officer for comment. The ZEO has reviewed the letter and responded. The Commission asked that Mr. Stedding receive a copy of the response, and Mrs. Carson gave a copy to Mr. Stedding.

X. ADJOURNMENT

A motion was made by Jill Conklin, seconded by Lise Wood and unanimously voted to adjourn the November 20, 2006 Zoning Commission meeting at 8:30 p.m.

Respectfully submitted,

A.P. Calder, Secretary

Robin Timmons, Recording Secretary

MINUTES ARE NOT OFFICIAL UNTIL APPROVAL AT A SUBSEQUENT MEETING.