

Town of Lebanon

PLANNING AND ZONING COMMISSION

Regular Meeting

Lebanon Town Hall
Lower Level Conference Room

Monday, December 21, 2009 – 7:00 PM

MINUTES

Members Present:	James Jahoda, Chairman David Fields, Secretary Eric Bender Robin Chesmer Susan Brett Davis Keith LaPorte Francis Malozzi Wayne Budney, Alt.	Members Absent:	Mark Bancroft, Alt. Matthew Johnson, Alt.
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Also Present: Philip Chester, AICP, Town Planner
Brandon Handfield, P.E., Town Engineer
Holli Pianka, Land Use Secretary

I. Call to Order

The meeting was called to order at 7:02 p.m. by Chairman Jahoda. He welcomed the new members Eric Bender and Francis Malozzi. Secretary Fields then read the legal notice.

II. Election of Officers

- a. Keith LaPorte made a motion to nominate James Jahoda for Chairman of the Lebanon Planning & Zoning Commission, Robin Chesmer seconded. Vote: Approved unanimously.
- b. Robin Chesmer made a motion to nominate David Fields for Secretary of the Lebanon Planning & Zoning Commission, seconded by Keith LaPorte. Vote: Approved unanimously.

III. Public Hearings

- a. **File #10-09: William J. Ley, Jr., owner/applicant, 44 Gregory Road, Assessors Map 219, Lot 6. Request for Special Permit for Accessory Building per Zoning Sec. 7.3(b).**

Mr. Ley appeared before the Commission stating he is requesting to install a preconstructed 16' x 20' shed on a crushed stone base for storage of lawn and garden equipment and not for housing livestock. Mr. Chester read from his 12/14/09 report and stated he has visited the site and finds no issues. There was no public comment and with no further discussion, Ms. Davis made a motion to close the public hearing, Mr. Fields seconded, and the Commission voted unanimously to close the public hearing.

- b. **File #10-10: Request of Planning and Zoning Commission to amend Article VIII Special Regulations of Lebanon's Zoning Regulations Sections 8.5 Billboards and Signs; 8.6 Earth Excavation and Filling; and 8.11 Rear Lots.**

Mr. Chester, Town Planner, noted that there are 5 changes being proposed to the Zoning Regulations. The changes to the sign regulations would prohibit off-premise real estate

signs and would prohibit neon and internally lit signs. Prohibiting off-premise real estate signs was recommended by Mr. Bob Wentworth to the Regulation Review Committee. Prohibiting neon and internally lit signs was felt by the Regulation Review Committee to keep with the rural character of the Town.

Changes to the rear lot regulations would exempt the new increased setback requirements enacted last year for those rear lots in existence prior to August 25, 2008 – keeping the setbacks at 50-foot front yard and 25-foot side yard, which was the previous requirements, so as not to zone out use of pre-existing rear lots.

The revisions to the Earth Excavation Regulations include requiring the preservation of prime and important farmland soils consistent with the stated purpose of Lebanon's Zoning Regulations; specific soil testing data and stockpiling requirements; and, requiring that a minimum 6-inches topsoil remain onsite.

Mr. Handfield, Town Engineer, reviewed proposed significant changes to the existing regulations.

Public comment included:

- 1) Oliver Manning, resident, excavation of 100 yards on a small lot being significant.
- 2) Jim Grover, resident and local business owner, inquiring why soil should be kept in specific areas. The proposed changes will stifle his trucking business.
- 3) Mark Sellew, owner, Prides Corner Farm, believes the proposed change would be a severe economic penalty amounting to millions of dollars in land loss for growing crops. Feels 6" of soil is more than sufficient to reclaim the land.
- 4) Tom Burdick, Prides Corner Farm employee, if the land is sold to developers for a housing subdivision, farming is lost forever on that parcel. Top soil would be stripped, a minimum returned and the rest sold. Excavation businesses will lose money from existing contracts if this is proposed.
- 5) Mark Olenick, resident, what happens if there is less than 6" existing prior to excavation.
- 6) Dan Moore, resident, Prides Corner employee, discussed ponds and permanent wetlands being created. Feels Prides is being targeted.
- 7) Letter dated December 21, 2009, was received from Prides Corner Farm addressing concerns on the new proposals.

Mr. Handfield addressed why the Town is proposing to keep the top soil. The Town would like to protect permitted uses in that zone and the land returned back to the original permitted use, i.e. farming is a permitted use, the town would like land to remain a farming use.

Mr. Chester stated that the Town, NRCS and Department of Agriculture are looking to preserve prime and important farmland soils and regulate any removal.

Motion was made by Sec. Fields to continue the hearing for application #10-10 to January 11, 2009, seconded by Ms. Davis. Vote: Approved unanimously.

IV. New Business

- a. **File #10-11: George & Donna Bogdanovich, applicants, Harold Wheaton, owner, 161 Barker Road, Assessors Map 245, Lot 24.0001. Request for Special Permit for Accessory Living Unit per Zoning Sec. 8.2.**

Mr. Bogdanovich submitted a written request to postpone the public hearing date to the next regular meeting on January 11, 2010.

- b. **File #10-12: Richard Mitlisky, owner/applicant, 74 Card Street, Assessors Map 202, Lot 43. Request for Site Plan Modification.**

Mr. Chesmer recused himself from this application and left the meeting.

Mr. Chester noted that the Mitlisky's came before the Commission previously informally to discuss a proposed expansion of their facility. Their Site Plan Modification application proposes an 18,000 square foot addition as an agricultural use. The egg farm ceased to have chickens about 10 years ago and has since operated solely as an egg distribution facility. The Health Agent's report dated 12/21/09 states that the proposal conforms to Public Health Code.

Attorney Ronald Goldstein and Michael Tarbell of Tarbell, Heinz & Assoc. spoke on behalf of the owner/applicant and reviewed the site plan. Atty. Goldstein states that the purpose of the plan is to increase efficiency of operation and energy and it is not intended to increase truck traffic or business.

Mr. Handfield, P.E. reviewed his report to the Commission dated 12/17/09 in which he reviewed the plan under Zoning Sec. 4.2.b.18. or poultry operations. Atty. Goldstein responded that his applicant is not applying under this section, but as an incidental agricultural use under the State definition of agriculture. He also felt that this was a pre-existing nonconforming use.

Public comment:

- 1) Oliver Manning, that the applicant is stretching agricultural use to accommodate the business.
- 2) Kara Fishman, 54 Card Street, Lebanon, address continuing agricultural use or residential use and concern of future use of the additional buildings if no conditions are imposed. She desires a public hearing in order to involve the neighbors.

Ms. Davis suggested applicant consider applying for a General Business Use Special Exception, but after discussion found the application does not meet the maximum 5,000 sq.ft. requirement.

The Commission asked Mr. Chester to obtain an opinion from Commission Counsel relative to pre-existing nonconformity and conformity with the State definition of agriculture.

- c. Ms. Davis motioned, seconded by Sec. Fields to add the following items to this evening's agenda: 1) Tobacco Street Bridge Plan, 2) Scott Hill Road Salt Shed. Vote: Unanimously approved.

1) Mr. Handfield, P.E. presented a brief review of the Tobacco Street bridge design. Sec. Fields motioned to give PZC affirmation on design of the bridge, Ms. Davis seconded. Vote: Approved unanimously.

2) Mr. Handfield, P.E. commented that the temporary salt shed on Camp Mooween Road is oriented correctly against the elements and is well constructed.

Chairman Jahoda will send a letter to the First Selectman and Public Works Department stating that PZC approval is required on all future, temporary or permanent projects prior construction or Town Meeting vote.

V. Old Business

- a. Informal Discussion (Olenick Property). Mr. Olenick presented a plan to close his gravel pit by replacing the two (2) inches of topsoil that existed prior to excavation and to establish grass to stabilize the site.

Ms. Davis made a motion, Sec. Fields seconded, to approve closing of the Olenick gravel pit by allowing 2" of topsoil to be established, which existed prior to excavation, and to establish grass, at which time the bond may be released. Vote: Approved unanimously.

- b. **File #10-09: William J. Ley, Jr., owner/applicant, 44 Gregory Road, Assessors Map 219, Lot 6. Request for Special Permit for Accessory Building per Zoning Sec.7.3(b).**

Sec. Fields made a motion, Ms. Davis seconded, to approve the application #10-09. Vote: Approved unanimously.

VI. Executive Session

- a. At 9:40 p.m. a motion was made by Ms. Davis to enter into executive session, Mr. Malozzi seconded. Vote: Unanimously approved. Executive session ended at 10:04 p.m.

Ms. Davis motioned, Mr. Fields seconded, to authorize legal action against DiBernardo and Gugliamo at Red Cedar Lake and John Jacques at Amston Lake. Vote: Unanimously approved.

VII. Town Planner's Report

- a. The Town has been awarded a \$47,000 Ag Viability Grant from the Department of Agriculture for \$10K Farmers Market, \$19K property appraisals and surveys, and \$18K for agricultural education and planning studies, including POCD preparation.
- b. The next Land Use Academy workshop for Commission members is in May 2010.
- c. January 28, 2010 special meeting to discuss proposed changes to FEMA Flood Maps to be hosted by Commission at Fire Safety Complex. Mr. Handfield will assist with presentation
- d. Motion made by Ms. Davis and seconded by Sec. Fields to approve legal expenses of \$294 as presented in Town Planner's 12/21/09 memorandum. Vote: Unanimously approved.

- VIII. Approval of Minutes~ November 16, 2009 Regular Meeting. Mr. LaPorte motioned, Mr. Malozzi seconded, and members voted unanimously to approve the minutes as presented.

IV. 2010-2011 FY Budget

A motion was made by Sec. Fields, and seconded by Mr. LaPorte, to approve the proposed 2010-2011 Fiscal Year Budget in the amount of \$131,695.00 as presented in Mr. Chester's 12/15/09 memorandum. Vote: Unanimously approved.

VIII. Adjournment

Moved by Chairman Jahoda, seconded by Ms. Davis to adjourn the meeting at 10:20 p.m. Vote: Approved unanimously.

Respectfully Submitted,
Holli E. Pianka, Land Use Secretary
December 22, 2009

(Minutes are unapproved as of transcription date.)