

Town of Lebanon

PLANNING AND ZONING COMMISSION

Regular Meeting

Lebanon Town Hall
Lower Level Conference Room

Monday, January 11, 2010 – 7:00 PM

MINUTES

Members Present: James Jahoda, Chairman
David Fields, Secretary
Eric Bender
Robin Chesmer (7:30 p.m.)
Susan Brett Davis
Keith LaPorte (8:09 p.m.)
Francis Malozzi
Wayne Budney, Alt.
Matthew Johnson, Alt.

Members Absent: Mark Bancroft, Alt.

Also Present: Commission Counsel Edward O'Connell
Commission Counsel Mark Zamarka
Philip Chester, Town Planner
Brandon Handfield, Town Engineer
Jason Hofmann, WPCA Chairman
Holli Pianka, Land Use Secretary

I. Call to Order

The meeting was called to order at 7:05 p.m. by Chairman Jahoda. He noted that Mr. Budney and Mr. Johnson have been seated for Mr. Chesmer and Mr. LaPorte. Secretary Fields then read the legal notices into the hearing record.

II. Public Hearings

- 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.**

George and Donna Bogdanovich appeared before the Commission. They discussed their floor plan and access to the proposed accessory living unit.

Public Comments:

Patty Kisselbrack, 138 Barker Road, concern of apartment use if current owners vacate the property.

Bob Leone, 170 Barker Road, concern of future horse barn location.

Ms. Davis motioned to close the public hearing, Sec. Fields seconded. Vote: Approved unanimously. Ms. Davis motioned to amend this evening's agenda to include this item (File #10-11) under Old Business, Sec. Fields seconded. Vote: Approved unanimously.

**Ms. Davis motioned to approve File #10-11 as proposed, Mr. Bender seconded.
Vote: Approved unanimously.**

- 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. Full text of the amendments is available in the Town Clerk's Office. (Continued from 12/21/09.)**

Christian Joseph of Prides Corner Farms read and submitted a letter dated 12/21/09, stating proposed amendments will create a financial hardship to their business. Their recommendations include a proposal to allow 6" of top soil to be retained for future excavation per compliance as well as retaining sub-soil materials for use at the nursery. They also request that the Commission waive the additional 2" minimum retention (for a total of 6") at the existing Goshen Hill Road and Browning Road Sites as the owner of the topsoil is Tom Burdick of T.C. Topsoil.

Mr. Burdick submitted an agreement with Linda Cabral (Williams) who sold the property to Prides, whereby he purchased the topsoil with the agreement that he retain only 4" of topsoil as this was zoning compliant and feels it is unfair that this would change after the original agreement and would cause a severe hardship on his business.

Review comments given by Brandon Handfield, Town Engineer discussed his discussions with Kip Kolsinskas of the USDA/NRCS and their reclamation standards for earth mining.

It was the consensus of the Commission to keep the public hearing open to allow for further public comment.

Motion was made by Ms. Davis to continue the hearing for File #10-10 to February 8, 2010, seconded by Secretary Fields. Vote: Approved unanimously.

III. New Business: None.

IV. Old Business:

- a. **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 room.

Correspondence was received from the following abutting property owners stating concerns of increased noise and truck traffic, lack of public hearing, lack of use clarification, non-conformity and enforcement of conditions:

- 1) Kara Fishman, 54 Card Street
- 2) Barbara Pekarovic, 71 Card Street
- 3) Peter J. Pekarovic Jr., 71 Card Street
- 4) Peter J. Kerensky, 46 Card Street
- 5) Janis Kerensky, 46 Card Street
- 6) James G. Turner, 58 Card Street
- 7) Meloney Turner, 58 Card Street
- 8) Anne E. Dawson, 10 Card Street
- 9) Laurie Shaw, 87 Card Street

Commission Counsel Edward O'Connell and Mark Zamarka are present and discussed the definition of agriculture and farming in relation to this application. Commission members were divided over the term agriculture and non-conformity relative to this project. They

expressed a desire to have the applicant provide the specific controls that would be in place to assure that approval would not constitute an expansion of a non-conforming use.

- b. A motion was made by Ms. Davis and seconded by Eric Bender, to add Amston Lake Study to the agenda. Vote: Approved unanimously.
The Amston Lake build-out analysis is being conducted by Paula Stahl and should be completed next month. The Commission discussed the need to review this analysis and study the zoning regulations to assure that orderly development at the lake takes place with the onset of sewers.

V. Executive Session

- a. At 9:50 p.m. a motion was made by Mr. LaPorte to enter into executive session with Commission Counsel O'Connell and Zamarka and Town Planner Mr. Chester to discuss Chmurynski v. PZC, PZC v. Rychling, and pending litigation regarding seasonal use violator at the lakes, Ms. Davis seconded.
Vote: Unanimously approved. Executive session ended at 10:04 p.m.

VI. Town Planner's Report

- a. New London Farm Bureau has recognized Lebanon for its commitment to their agricultural community.
- b. Commission will hold off on public forum for property owners affected by new FEMA flood maps until late spring or early summer.
- c. Update on enforcement actions.
- d. Update on farmers market.

VII. Approval of Minutes~ December 21, 2009 Regular Meeting. Mr. Malozzi motioned, Mr. Budney seconded, and members voted unanimously to approve the minutes as presented.

VIII. Adjournment

Moved by Mr. Bender, seconded by Mr. Budney to adjourn the meeting at 10:08 p.m.
Vote: Approved unanimously.

Respectfully Submitted,
Holli E. Pianka, Land Use Secretary
January 15, 2010

(Minutes are unapproved as of transcription date.)