

Town of Lebanon

**PLANNING AND ZONING COMMISSION**

Regular Meeting  
Lebanon Town Hall  
Lower Level Conference Room

Monday, November 21, 2011 – 7:00 PM

**MINUTES**

Members Present: James Jahoda, Chairman  
David Fields, Secretary  
Eric Bender  
Keith LaPorte  
Francis Malozzi  
Robin Chesmer (7:17 p.m.)  
Susan Brett Davis  
Wayne Budney, Alt.  
Members Absent: Mark Bancroft, Alt.  
Matthew Johnson, Alt.  
Also Present: Philip Chester, Town Planner  
Holli Pianka, Land Use Secretary

I. The meeting was called to order at 7:00 p.m. by Chairman Jahoda.

II. New Business:  
Will be taken up after the Public Hearing.

III. Public Hearing:

a. PZ-11-916: North Street Scenic Road Designation. Frank Himmelstein, applicant.

Secretary Fields read the legal notice into the hearing record. Mr. Chesmer recused himself from this application as he arrived late. Mr. Frank Himmelstein stated that he has preserved the surrounding farmland and would like the road remain unchanged.

Mr. Chester reviewed the site map and clarified that designating North Street a Scenic Road would affect the public right of way and not private land improvements, and that the Planning & Zoning Commission would need to approve changes proposed to the road by the Board of Selectmen.

Mr. & Mrs. Ed Bigenski, 614 Goshen Hill Road, own property on North Street and wished to know if their land or the use of their land would be restricted in any way should it become a scenic road, specifically subdivision or paving restrictions. Mr. Chester responded that according to the Town Ordinance it would not. The Bigenski's stated no objection.

Amy Himmelstein and husband Bob were present on behalf of Arlene Himmelstein who owns land on North Street. They inquired if there would be any change to the scenic road designation if a subdivision took place, with increased traffic and houses being built and the possibility and effects of this road if it were paved. Mr. Chester reiterated that scenic road designation does not change rights of private property owners and does not stop subdivision. First Selectman Okonuk addressed the question of how often gravel roads are paved in town. She said that she does not recall of one being paved in many years and also that any changes made to a scenic road such as width, drainage, etc., would require approval by the PZC and Board of Selectmen and additionally, paving a road requires town meeting approval. Mr. Chester noted that North Street has been recommended to be designated as a scenic road by the Conservation Commission and Lebanon's 2010 Plan of Conservation and Development.

With no further discussion, Mr. Malozzi made a motion to close the public hearing, seconded by Ms. Davis. Approved unanimously.

**PZ-11-916: North Street Scenic Road Designation. Frank Himmelstein, applicant. Mr. Laporte made a motion to accept North Street as a scenic road designation, seconded by Secretary Fields. Motion was approved unanimously.**

II. New Business:

- a. Prides Corner Farm, 48 Browning Road and 126 Madley Road. Jim Costello and Christian Joseph spoke on behalf of the application. Prides proposes converting two existing single-family residences into housing for migrant workers. The Building Official and Fire Marshal will consider the homes to be boarding houses and require them to meet building and fire code requirements accordingly. Each location would house 10 migrant workers for up to 9 months. This (H2A) program is regulated by the federal government and Prides Corner would be responsible for monitoring and providing work, housing, transportation and recreation for the occupants. Background checks are performed on all applicants and also examination by the Mexican Council prior to obtaining a special visa. Mr. Costello stated that Prides Corner would like to participate in this federal program in order to help stabilize their workforce and maintain or increase their current rate of production. The Commission requests that the applicant notify the abutting property owners and that the Town is provided a list of worker's names to the Commission. It was the consensus of the Commission to allow Mr. Chester to sign off on the zoning approval for this use with exception that the maximum number of occupants for each home be capped at 10.

III. Old Business

- a. Section 8-24 Report: Industrial Park Road

Mr. Chester noted that this issue was discussed last month and that the Assessor determined that there would be no tax implications if title to industrial Park Road were transferred to Scotts. Commission Counsel has also determined that access to the corner property cannot be impeded under State Statute and that the agreement calls for Scotts to maintain the road.

First Selectman Okonuk stated that during meetings with Scott's representatives during the planning stages for the 100,000 square foot warehouse currently under

construction the town suggested Scott's consider obtaining ownership of the road since they now owned all the lots on it and were fully utilizing them, and in some cases the road itself. She listed the following additional reasons for proposing transfer of the road to Scott's:

- Ongoing required maintenance of the road and town trucks is a liability and makes no sense. This is the last road on the way out of town before the Franklin line and besides the wear and tear of both the road and trucks, it would shorten the plow truck route significantly in winter.
- Scott's has acquired the last two properties on the street and treats the road like a private drive because they are the only residents, storing product in the roadway, and the town is required to monitor this and continually requiring them to remove the product from the roadway – therefore eliminating an ongoing zoning issue.

A state traffic permit was issued requiring intersection improvements for truck turning and the certificate of occupancy for the warehouse under construction will not be issued until the DOT gives final approval of the road construction.

First Selectman Okonuk and Mr. Chester indicated they would like to encourage the company's future use of the rail line to help eliminate truck traffic.

Ms. Davis and Mr. Bender indicated they would only be in favor of transferring the road if Scott's provided a monetary fee. Mr. Chesmer feels there is no future benefit to the town maintaining ownership of the road and that this should be looked upon as a business decision and opportunity to decrease town costs.

**Mr. LaPorte made a motion to give a favorable 8-24 report for the proposal to transfer ownership of Industrial Park Road from the Town of Lebanon to Scott's Hyponex Corporation, Mr. Chesmer seconded.**

**Vote:**

**In favor: (4) Chesmer/ Fields/LaPorte/Jahoda**

**Opposed: (3) Bender/Malozzi/Davis**

**Motion APPROVED.**

V. Approval of Minutes

Mr. Malozzi made a motion, seconded by Ms. Davis to approve the October 17, 2011, Regular Meeting Minutes as presented. Motion approved unanimously.

VI. Correspondence

- a. Bills from Waller, Smith & Palmer, P.C, dated 11/4/11:  
Invoice #48654, \$1,440.00; Invoice #48653, \$150.00, Invoice #48652, \$75.00.  
Mr. Malozzi made a motion, seconded by Ms. Davis, to pay bills in amount of \$1,665.00. Approved unanimously.
- b. Request from BOS to file meeting dates for 2012. Ms. Davis made a motion to approve the 2012 PZC calendar of meeting dates, seconded by Secretary Fields. Approved unanimously.

VII. Town Planner's Report

- a. 312 Oliver Road, owner Mr. Ryan has requested a home occupation permit for a gun transfer business. The Commission requested that the owner be present at next month's meeting to provide additional information.
- b. 185 Randall Road, owner Anderson Trust. Town is working to help owners preserve their property.
- c. Village Center Study. First Stakeholder's Committee meeting took place this month. Consultant will be attending December 19, 2011 Commission meeting.
- d. Enforcement matters:
  - 1) 229 Lakeside Drive, Cease and desist notice issued to the owner Mr. Swidrak. He has obtained permit application and has discussed a plan of compliance with the Building Official.
  - 2) 155 Church Street, Mr. Michaud, owner. Storage of unregistered vehicles or junk.
- e. Notice of Town of Franklin public hearing to permit hotels by special exception.

VIII. Executive Session

There was no executive session this evening.

- IX. Mr. Malozzi made a motion to adjourn, seconded by Ms. Davis. Unanimously approved and the meeting adjourned at 8:07 p.m.

Respectfully Submitted,  
Holli E. Pianka, Land Use Secretary  
November 28, 2011

*(Minutes are unapproved as of transcription date.)*