

**TOWN OF POMFRET
PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES
MONDAY, JANUARY 25, 2010 AT 7:00 PM
POMFRET TOWN HALL**

In Attendance: Commission Members Walter Hinchman, Phil Allegretti, Robert Blackmer, Maureen Nicholson, Ted Tsanjoures, Richard DiBonaventura, Martha Paquette, and Beverly Champany;; Staff – James Rabbitt, Town Planner, Ryan Brais, ZEO. Not Present: Antonio Amaral and Kimberly Bergendahl.

- I. **Regular Meeting** – W. Hinchman opened the meeting at 7:02 pm.
- A. Current Business –
1. Approve Minutes of November 23, 2009 – M. Paquette made a motion to approve the minutes. R. DiBonaventura seconded the motion. B. Champany noted that Paine Road was spelled wrong. W. Hinchman noted that flue was spelled like the illness. Minutes, with two minor corrections, were approved unanimously.
 2. Items to Add to Agenda – W. Hinchman said that he has several items he'd like to add to the agenda under Commission Business. 1) CT Audubon Society has a change in their plans for the proposed education center; 2) discussion on outdoor wood burning furnaces; 3) where the February meeting will be held; 4) setting up a possible workshop date; and 5) discussion of the Abbott legal question, which will be done in executive session.

II. **New Business**

- A. Acceptance of New Applications –
1. **Andrew & Judith Mitchell, 253 Mashamoquet Road**, bed and breakfast. Andrew & Judith were both present to speak on behalf of their application. W. Hinchman asked where 253 Mashamoquet Road is located. A. Mitchell said that it is the first driveway on the left after Babbitt Hill Road. He also said that this will be a small, modest B&B with no modifications to the property or home. There will be a one family rental unit consisting of a common area, two bedrooms and a bath. J. Mitchell mentioned that since they'd submitted their application, they had received the B100 from NDDH. W. Hinchman then noted all of the items in their application file and mentioned that this application requires a Public Hearing of which the applicants were aware. He then asked if the Mitchell's had anything else to share with the commission. A. Mitchell said that all they had left to do was send out the registered letters to the abutters and contact the fire marshal. W. Hinchman corrected A. Mitchell by saying that the letters are to be certified return receipt, not registered. P. Allegretti then asked if Jamie had reviewed the site plan, to which he replied no. Phil then mentioned to the applicants that they should go over the site plan requirements for special permits in the regulations, because there are

about 28 of them. He said they should go through them to make sure they have everything that's required and to request waivers for those that don't apply to them. The application was then accepted by the commission.

2. **Eric Johnson, 33 Wade Road**, home occupation (home office).

E. Johnson was present to speak regarding his application. He said he wasn't sure on how to proceed, so he brought it to the commission. He wants to have a home office for his forestry business. W. Hinchman said this would be considered a home occupation and asked if Eric had any equipment. Eric said he has a skidder. W. Hinchman then asked if it stayed at E. Johnson's house, to which Eric replied, "Hopefully never". W. Hinchman then asked if he had any other equipment. E. Johnson said he did not. J. Rabbit then asked E. Johnson if he knew which class permit he was applying for. E. Johnson said he didn't know. J. Rabbitt then went on to explain the difference between the Class 1 and Class 2 permit. He said that if E. Johnson needed a Class 2 permit, he would need to obtain a Special Permit which would require a Public Hearing. E. Johnson said that he doesn't foresee storing any vehicles on site. W. Hinchman then said that E. Johnson should contact J. Rabbitt to discuss the application and see if everything is in order and whether he needs a Class 1 or Class 2 permit. He then asked if anyone had any further questions. He said we could tentatively schedule a Public Hearing for this issue next month.

He then said that we need to make a motion to schedule Public Hearings for both new applications. P. Allegretti said so moved. It was seconded by R. Blackmer and approved unanimously. W. Hinchman then mentioned that he assumed both applicants will speak with Jamie to get everything in order. J. Mitchell then asked if the hearing would be here or elsewhere to which W. Hinchman replied that it would be decided later in the meeting (either the Old Town House or the Senior Center) and that it would be noted in the legal notice in the Norwich Bulletin.

- B. Citizen's Comments – C. Boster of Paine Road commented on the minutes of 11/13/09 in Section III number 1. He said it was construed about the height of the flue but what he thought about was the permitting process not flue height. He never heard from the ZO regarding zoning permits. He then referenced Sections 2.1 Structures, 2.3.5 Prohibits smoke odor, and page 80 definition of structures (last line). He also said that he doesn't know what the BO does but in his opinion, a zoning permit is needed for an outdoor wood burning furnace. P. Allegretti then said that the minutes stated that no permit is needed. There was discussion regarding what was said during the previous meeting. W. Hinchman then asked C. Boster to participate in the discussion later in this meeting

regarding outdoor wood burning furnaces. C. Boster thanked W. Hinchman and said he would do so.

C. Correspondence –

1. **ZEO Report** – Ryan Brais gave the following information:
 - a. on January 9th, he inspected house on corner of Kearney Road and Killingly Road for John Brannigan; the house location is all right but we are awaiting the revised driveway plans; G. Postemski is communicating with CME Associates to finalize the design
 - b. on January 23rd, he did a CO inspection for a new house on Orchard Hill near Valentine Road; the lot is owned by Tom Borner and it was constructed by Ernie Collelo. He signed off on the CO, but is waiting for an as-built to release the CO.
2. Bond release request from Keith Wilcox. J. Rabbitt spoke to K. Wilcox regarding this bond release. He explained that even though G. Postemski, as road foreman, says it's OK to release the bond, staff still needs to inspect the site to determine compliance with the approved plan. He then asked for a motion from the commission to allow staff the authority to release the bond if K. Wilcox is in compliance. R. Blackmer made a motion allowing staff to release the bond as long as K. Wilcox is in compliance. M. Nicholson seconded the motion. There was some discussion regarding releasing part of the bond now and the remainder at a later date and the lots involved. R. Blackmer then said that he was comfortable giving Jamie the authorization to release the bond as long as everything is done as requested. W. Hinchman said that he is also comfortable allowing Jamie to release the bond. A vote was then taken on the motion and it was approved unanimously.
3. Selectman's discussion. J. Rivers spoke to the commission.
 - a. He said that the conservation commission requested that the Selectmen address seeking an ordinance to protect stone walls in town; therefore, he brought it to zoning to see if there are regulations regarding stone walls. W. Hinchman then asked Ann Hennen, a member of the conservation commission, if they could have someone come to the next P&Z meeting to explain their proposal they gave to the Selectmen. R. Blackmer then asked Ann if this is intended to protect existing walls. Ann said that it was only for those visible from town and state roads. She said they have no business with stone walls on people's properties. There was some discussion regarding walls on town property and private property. Ann then said that they are basically speaking about walls that border or can be seen from the road. She said this needs more discussion. Paul Hennen then asked if the stone walls that create a property boundary between two neighbors could be protected. R. DiBonaventura said he believed that they already are

- and that it is illegal to remove a border. P. Allegretti said he believes they are protected, but we have a lot to look into.
- b. The next issue was regarding large land protection purchases. He said that there are a few more to be done but he can't mention the landowners right now.
 - c. The next issue is KWP and Pomfret School. They will be coming to speak to the commission regarding the sewer line they wish to put in and connect to either Putnam or Killingly. It looks, at this point, that the line will be going to Killingly. They made a presentation to the Selectmen and they are looking for grants/funding for the project. J. Rivers said that the Town will not pay for any of this. There is still a long way to go with this, but parties are moving forward and it could cost approximately \$7-8 million. W. Hinchman asked if Pomfret has a Sewer Authority. J. Rivers replied yes, the Board of Selectmen. W. Hinchman then said that he had a letter from KWP about being here at our February meeting because they couldn't make it tonight. R. Blackmer asked if Killing had agreed to a tie-in fee. J. Rivers said not yet.
 - d. J. Rivers then mentioned that there are two projects still open and incomplete. He said that the islands (end caps) here at the Town Hall and at the school were in the original plans but have not been installed as of yet. He said that it was up to the commission to grant any type of relief. W. Hinchman then said that from what J. River described, nothing has been done yet so maybe a formal request could be made not to include the end caps/islands. He thinks this should be put on the February agenda and have our staff and road foreman review. At this point, J. Rabbitt said that neither staff nor commission has the individual power to relinquish/change a previously approved application. It can only be done by application. This could require a Special Permit which entails a Public Hearing. W. Hinchman said hearing what Jamie said, this need to be done in the same fashion as it was originally done and follow through the same process. We should schedule a tentative Public Hearing for February. J. Rabbit said that we can upon receipt of an application.
4. Other correspondence – M. Nicholson read a letter she wrote dated 1/25/10, which was her official letter of resignation from the Planning and Zoning Commission. After she finished reading her letter, W. Hinchman thanked Maureen for her long-term service to the commission. At this point, W. Hinchman said he had a letter dated 12/6/09 from Paul Hennen regarding M. Nicholson being on the commission and also being a Selectman. He said that Maureen's letter she wrote makes this letter from P. Hennen a moot point. P. Hennen agreed, but asked that his letter remain a part of public record. At this point, C. Boster wished to commend M. Nicholson for her service but

wished to determine whether she would be voting. W. Hinchman said that her resignation was effective immediately when her letter was read; therefore she wouldn't be doing any more voting. J. Rabbitt spoke up at this point and made mention that it is inappropriate for a citizen to speak outside of the agenda item that allows the public to speak. The next issue was a letter from E. Cotnoir regarding CT Holdings, LLC and the gravel extraction. The new owner is Ridgewood Farm, LLC and this land is on Searles Road. It said that the special permit is valid and in full effect. W. Hinchman did say that it had been approved and even though it was appealed, it did not get through the court. Mr. Cotnoir wishes to know the standing on this issue. J. Rabbitt politely requested that we take this under advisement and have staff respond in writing to this request. T. Tsanjoures said so moved. W. Hinchman said that we will have Jamie review and inform us and Mr. Cotnoir. It is to be noted that this issue was raised at our meeting and turned over to staff. The next issue is two letters that are both from Atty. Zizka regarding the Abbott subdivision appeal. W. Hinchman said he wished to hold this until the end of the meeting and it will be discussed during executive session.

III. Commission Business

- A. Citizen's Comments** – moved to end of Commission Business
- B. CT Audubon Society** – J. Rabbitt said that he was approached by Sara Hemmingway and they wish to move forward but they want to proceed with change. They had a previously approved site plan via the Special Permit process. They have three changes to the original plan: 1) move the building 50' in a southerly direction; 2) eliminate the basement and just install a slab; and 3) lower building 2.5', which is still within the original parameters. They need to amend in the same manner as they were approved because the commission can't make a decision outside of the permit process. The commission could possibly hold a special meeting to receive a new application. R. Blackmer then asked if he was confusing this with another application, but wasn't the basement originally intended for the storage of equipment. J. Rabbitt said that it was their original intent for the basement, but by them eliminating the basement, he has no knowledge of what the alternative is to it. There was further discussion regarding this issue. W. Hinchman said that the commission could hold a special meeting to accept a new application from them and then hold a Public Hearing for neighbors and abutters to discuss it. It was suggested that due to their non profit standing, the commission could consider possible waiving the application fee. J. Rabbitt mentioned that reapplying incurs more costs for Public Hearing, fee, legal notice fee, certified return receipts to abutter and staff time. He thought that maybe they should reimburse the town for any expenses. W. Hinchman then asked if there should be a special meeting motion to

accept the application. P. Allegretti said that it was fine and a good idea. W. Hinchman then asked about waiving the fees. Again, P. Allegretti thought this was a good idea. R. DiBonaventura made a motion to waive the fees but with the stipulation that they reimburse the town for actual costs. T. Tsanjoures seconded the motion and it was approved unanimously. W. Hinchman said he would call everyone to set up a special meeting.

C. Outdoor Wood Burning Furnaces – C. Boster earlier raised questions regarding pollution and other issues. P. Hennen gave W. Hinchman a recent article from the Hartford Currant that deals with this issue. J. Rabbitt then passed out some information from the CT Dept. of Environmental Protection regarding outdoor wood burning furnaces. Discussion ensued regarding state regulations and whether the town should or shouldn't have to issue a zoning permit for these furnaces. R. Blackmer said that we will probably see the state do more regulating down the road, but at this point there is nothing in our regulations other than location; therefore, anyone with a problem is referred to the DEP. C. Boster then mentioned that a problem with these furnaces is with the fuel and how they work and that there are no regulations on what kind of fuel to burn. He said he checked with other Zoning Officers in other towns who consider this furnace to be a structure and therefore should have a zoning permit. The DEP also states in the hand-out that the furnace must operate only on wood that has not been chemically treated. P. Allegretti stated that he felt the permit was up to the Building Official. C. Boster said that if it's 20-30' from the property lines then it's a zoning issue and not the Building Officials. W. Hinchman agreed with that last statement but said that he doesn't see anything in the regulations to give us the authority to regulate the height of the chimney or the distance from the next residence. R. DiBonaventura thought the applicant should see Ryan to make sure the furnace won't be placed in the set-backs. W. Hinchman mentioned that it has to be less than 200 square feet, also. R. Blackmer then asked if it was possible for W. Hinchman to send a letter to the Building Official to see how these permits are handled and then we could continue the discussion because there would be something to base it on. W. Hinchman said that R. Brais does not handle this issue in his office and he is unsure of how the Building Official handles it, but he will talk to Lee. At this point, C. Boster said that he would like to make a comment to the commission to please consider the health of people burning these stoves – there is potential damage being done to lung and it is highly polluting and harmful to kids. W. Hinchman asked R. Brais to contact ZEO's in neighboring towns to see how these furnaces are being regulated. This will be on the agenda for next month.

D. February meeting – with the Public Hearing's coming up, we need a larger space and an ADA approved location. We have to handicapped

locations available to us; one is the Old Town House and the other is the Senior Center. W. Hinchman recommended that we go to the Old Town House, simply to let people know its there. B. Champany said that the parking is bad and the lighting is bad. It's extremely dark going to your car after a meeting there. W. Hinchman said that was a good point. J. Rivers then said that there aren't many people who have keys to open/close the Old Town House for meetings. P. Allegretti then said that we've never been to the Senior Center, so maybe we should try it out to see what it's about. It was decided that the February meeting will be at the Senior Center.

- E. Possible workshop date for new members** – W. Hinchman asked if there is a day of the week that is better for everyone and at what time. He assumed that evening would be best. It was mentioned to have it on the 15th, but the clerk said this was a holiday. It was then scheduled for the 8th from 7-9 pm at the Town Hall. The chairman asked if there were any Citizen's Comments at this point of the meeting. No one spoke.
- F. Executive Session** – at 9:08 pm the commission went into executive session.

- IV. Adjournment** – W. Hinchman notified the clerk that the commission came out of executive session and adjourned the meeting at 10:00 pm.

Respectfully submitted,

Lynn L. Krajewski, Clerk

Date approved _____