

Zoning Commission
MINUTES
Public Hearings – Special Meeting
May 21, 2018

7:30 p.m.
Main Level Meeting Room

MEMBERS PRESENT: Mr. Solley, Mr. Reich, Mr. Werkhoven, Mr. Averill, Mr. Armstrong
ALTERNATES PRESENT: Ms. Radosevich, Ms. Lodsine
ALTERNATES ABSENT: Mr. Sivick
STAFF PRESENT: Ms. Hill, Ms. White
ALSO PRESENT: Atty. Kelly, Ms. Freidman, Mr. & Mrs. Solomon, Atty. Ebersol, Mr. Szymanski, Members of the Public

REGULAR MEETING

Regular Business

Mr. Solley called the regular meeting to order at 7:30 pm.

Seated: Mr. Solley, Mr. Reich, Mr. Werkhoven, Mr. Averill, Mr. Armstrong

Consideration of the Minutes:

The Commissioners considered the regular meeting minutes from April 23, 2018, and the Special Meeting of April 17, 2018.

MOTION: To approve the Regular Meeting Minutes of April 23, 2018, and Special Meeting/Public Hearing Minutes of April 17, 2018, by Mr. Averill, seconded by Mr. Armstrong, passed by 5-0 vote.

Pending Applications:

101 Wykeham Road LLC. /101 Wykeham Road/Revision of Special Permit for Inn/Public Hearing continued to 5/15:

The Commissioners discussed when they should schedule the continuation of the 101 Wykeham Road, LLC. public hearing. It was noted that the previously scheduled Special Meeting was canceled due to weather. It was noted that the applicant would like to have the continuation take place after they have been through the Inland Wetlands process.

Atty. Kelly and the Commissioners discussed dates for the continuation.

MOTION: To continue the Public Hearing for 101 Wykeham Road, LLC. /101 Wykeham Road/Revision of Special Permit for Inn on June 25, 2018, at 6:30 pm in the Upper-Level Meeting Room of Bryan Memorial Town Hall, Washington Depot CT, by Mr. Solley, seconded by Mr. Reich, passed by 5-0 vote.

New Applications:

Erben Partners, LLC. /169 West Shore Road/Administrative Permit - Dock:

Ms. Hill stated that the Commissioners would not be voting on this tonight because the Commission needs to hear from the Lake Waramaug Authority. She referred to Section 6.6.5 of the Zoning Regulations regarding the width of the dock at its juncture with the existing shoreline and Section 21.1.60, shoreline definition as the land immediately surrounding the lake at the elevations of 694' above mean sea level. She noted that the application and the supporting documents indicate the 694' elevation being out in the Lake and asked for the Commissioners interpretation of the Section 6.6.5.

The Commissioners looked at sheet SD.1 and discussed the changing water level of the Lake.

Mr. Szymanski explained how the proposed dock meets the criteria of 6.6.5.

There was a brief discussion regarding how the proposed dock is attached to the building. Ms. Hill stated that she thinks the dock would be an increase in a non-conforming structure if it is to be attached to the building.

Mr. Szymanski granted an extension and offered to submit pictures of the building and the location at where the dock is to be attached. He submitted a written statement to grant the extension to the next regularly scheduled Zoning Meeting of June 25, 2018.

Other Business:

There was no other business on the agenda for the Commissioners to discuss.

Enforcement:

The Enforcement Report dated 5/18/18 was distributed to the Commissioners. The Commissioners stated that they like the included list of permits that were issued last month and hope that the new ZEO will include this list in the monthly reports going forward.

Communications:

5/8/18 Email from Mr. and Mrs. Fredlund re: Festival, 5/10/18 Letter from Mrs. Hill to Atty. Kelly re: Festival, and 5/14/18 Response from Atty. Kelly to Mrs. Hill:

The Commissioners discussed the fact that an administrative temporary permit was granted for a 7-day Carnival/Circus/Similar Event for an Arts Festival which will take place on two 3-day weekends with an additional day on the 2nd weekend for a total of 7 days. Neighbors have submitted letters to the Land Use Office bringing attention to the fact that the website for the Five Senses Festival are events that occur between these weekends over a 21-day period of time and feel that it is a "clear disregard of the Regulation and the Zoning Commission's decision to deny an additional 14 days of activity on the property."

The Commissioners questioned why this event was not planned for seven consecutive days. Ms. Hill stated that the Zoning Regulation Section 12.8.1 states “for a period of not more than seven days” and does not state that those days are to be consecutive.

Mr. Werkhoven stated that the spirit of the regulation is that the seven days are to be consecutive. He feels that Zoning was taken advantage of and he does not want this to set a precedent for future events.

There was a brief discussion regarding amending the Section 12.8.1 but that this temporary permit has already been issued so there is nothing that can be done at this point.

The majority of the Commissioners feel that the regulation was meant to be consecutive seven days.

Ms. Hill stated that there are two questions: 1. Does the Commission want to revise Section 12.8.1? and, 2. Is what is being planned now comply with the seven-day permit?

Mr. Werkhoven gave examples that the word consecutive was used and not used. He feels that if the regulation was not written to require consecutive days it would have stated that they did not need to be consecutive.

There was a discussion regarding the Commissions concerns about activities scheduled during the weekdays in between the approved weekends.

The Commissioners agreed that they should consult with Counsel.

The Zoning Commission reached unanimous consensus among the five regular members that when the regulation states a number of days, such as the seven days stated in Section 12.8.1, it means seven consecutive days.

Privilege of the Floor:

Mr. Solomon stated that when the Zoning Commission denied the revision to the 12.8, did they also deny “Arts Festivals” being the same as “circus, carnival or similar type of entertainment.” He also reminded the Commission that is Section 12.8.1 is amended to include “consecutive” that any time period of days mentioned in the zoning regulations would have to be revised to state “consecutive” if that is what is meant. Mr. Solomon informed the Commissioners that a court would find that the Zoning Commission “is allowed to interpret its regulations the way it sees fit.” He feels that Section 12.8.1 means seven consecutive days and that the permit was issued by mistake.

Atty. Kelly informed the Commission that he was stunned by their conversation tonight. He noted that this temporary permit was issued administratively as per the Zoning Regulations, which the Chair reviewed, and the Land Use department discussed whether it was allowable under these terms. He said that this temporary permit was approved before the last meeting at

which the Commission denied the request to revise Section 12.8.1. He stated that the “level of misinformation that I just heard from this Commission is staggering to him.”

Atty. Kelly referred to his letter addressed to Ms. Hill and the Zoning Commission dated May 14, 2018 (on file in the Land Use Office). He does not know why the applicant has not been asked to discuss this with the Commission tonight. He read excerpts from his letter.

Mr. Solley stated that the Commission is concerned with the planned activities that are scheduled to take place on days other than the approved 7 days. He explained that the consensus of the Zoning Commission that “because of the denial of the 21-day regulation change, that, how I interpret it, is that if there were other events going on other than those specific seven days, that basically you’re then encroaching on what we already denied.”

Atty. Kelly asked what everyone believes will be occurring on the property outside the seven days that were approved.

Mr. Solley referred to the information at www.fivesensesfestival.com/about.

Atty. Kelly stated that he would like to know what the Commission is so upset about what is happening on the Ingrassia property outside the seven days.

There was a brief discussion regarding the progress that has been made regarding hiring a new Enforcement Officer.

Adjournment:

MOTION: To adjourn the meeting at 8:41 p.m., by Mr. Averil, seconded by Mr. Werkhoven, passed unanimously.

Submitted subject to approval:

By: _____
Shelley White, Land Use Clerk, May 24, 2018

*All supporting documents mentioned are on file in the Land Use Office

**A recording of the meeting is available to the public in the Land Use Office.