Minutes
Guilford Planning & Zoning Commission
Regular Meeting & Public Hearing January 15, 2014
Nathanael B. Greene Community Center, 32 Church St.
7:30 P.M. – Menunkatuck Room (2nd floor)

Note: Minutes not final until approved at subsequent PZC meeting.

Members Present: Ray Bower (Chairman), Walter Corbiere (Secretary), David Grigsby, Tom Cost (Vice Chairman), Joshua Hershman

Members Absent:
Alternates Present: Frank D’Andrea, Richard Meier
Alternates Absent:   Staff Present: Regina Reid (Zoning Enforcement Officer); George Kral (Town Planner); Katie Arbuckle (Administrative Assistant), Kevin Magee (Environmental Planner), Charles Andres (Counsel)

(5 Voting)
Video: Shannon Gale
Audio Recording: Digital

There were approximately 10 people in attendance.

Chairman Bower called the meeting to order at 7:32 P.M. and explained meeting procedure to those present.

He then introduced the members of the Commission and staff: Bower (V), Grigsby (V), Corbiere (V), Cost (V), Hershman (V); Staff: Reid, Kral, Arbuckle, Magee, Andres. Cmsr. Corbiere read the legal notice.

Decisions of this meeting are available the day after the meeting by calling the Planning & Zoning Office (203-453-8039) after 9:00 AM.

PUBLIC HEARING – 7:30 PM – Menunkatuck Room

1. Lombard, Martha, 33 Lover’s Lane, Map 40, Lot 149, Zone R-3. Special permit for accessory apartment to a single family dwelling. § 273-19
   Present for the applicant: Eric Anderson, Jeff Beatty.
   Chuck Andres – The issue as I understand it is, an apartment that is connected with a covered breezeway, is that an addition based on your regulations, the dictionary, case law and legislature?
   The regulations say in the opening paragraph “within or in addition thereto.” There is also subsection 7 that says alterations or an addition must reasonably maintain the appearance as a single family dwelling. The definition is the commonly accepted meaning. There are two dictionaries in the court house, Blacks law and Webster's. Blacks Law says physically attached, Webster's says added to. The building code is an extension or addition to. In reviewing the case law there are rulings that go in both directions.
   Grigsby- Statutorily the commonly approved usage is used? Just because an applicant says it is ambiguous does not mean we have to buy into that?
   Andres- Correct the commonly used meaning is what is used and you can decide.
   Corbiere- Does enclosing it matter or not?
   Andres- That’s up to you, does enclosing it make it an addition?
   Beatty- It boils down to the fact that for the Daughter's of St. Paul case, it was a stone and concrete building attached by a glass walkway to a stone and concrete building that looked like two separate buildings. Ms. Lombard’s proposal does not look like 2 separate buildings.
Anderson- There have been a couple of occasions where the big house becomes the apartment and the smaller addition becomes the main residence. There have been approvals in town similar to this. It does reasonably maintain the appearance of a single family dwelling.

No one spoke in favor or against.

Corbiere- Do we have the power to specify that in-laws have to live in the apartment as the rental aspect seems to be the cause of the opposition?
Grigsby- can we make a condition to impose that it has to be family?

Anderson- in 1979 when the regulation was enacted one of the intents was for extra income for people to stay where they were. Photos of existing approved apartments was passed out.

The hearing closed at 8:16pm

2. Vieau, David, 521 State Street, Map 80, Lot 107a & b, Zone R-5. Special permit for accessory apartment in barn and studio office, guest accommodations in corn crib. §273-36.
Present for the application: Dave Vieau, Rick Deberadinis
The barn and corn crib are going to be converted to an apartment and guest quarters. The corn crib will have a half bath for my daughter in her art space. The Barn is going to be a game room. A septic upgrade was needed, it was approved by wetlands. Since the barn is just storage and a permit is needed to make it habitable space, I decided to make the permit for the accessory apartment.
Bower- are there external changes?
Vieau- there is a five foot addition to the back of the corn crib for the bathroom.
Cmsr. Bower read a letter from the health director and noted the approval letter from the wetlands commission.
Corbiere- will you still be able to drive between the barn and the corn crib?
Vieau- yes
Corbiere- How old is it?
Rick- The Barn has chiseled beams so probably 1800’s the crib about 1900’s.

Questions-
Bud Benson- I have no problem with the apartment as long as it meets the specifications. I know you are the CEO of a very reputable Drug rehab facility. Is the purpose of the apartment for a business situation?
Vieau- It is a billiards room, there is no business reason.
Bower- If it was a business purpose he would need to come back. If he does not it would be a zoning violation.
Ann Lisatano- On the agenda the use is studio office, guest accommodations in the corn crib. Why is that, if that is not what you are doing?
Grigsby- there are two special permit uses here. The Corn Crib for habitation with no kitchen and the barn with an accessory apartment
John Widman- I don’t trust anyone in that business, what is the name of your company?
Vieau- Its Turning Point, but that is irrelevant.
John Walsh- A billiards room? Is an application for an accessory apartment necessary?
Bower- It is his right.
Reid- He needs a special permit to do anything like that in a detached building.
Walsh- Can both structures be rented?
Reid- The corn crib can not be rented.
Walsh- is there a limit to the number of people it was rented to?
Reid- It is limited by the size to no bigger than 1000’ square feet.
Bower- As many as you could pack in technically.
Ken Nizolek- Is there a limit to the number of unrelated people it could be rented to?
Kral- there is no limit.
Bower- if he were planning to change it to a halfway house he would need a different permit.
Nizolek- What prevents that?
Bower- He has to come to the commission.
Corbiere- if he gets approval for an apartment and then uses it for a business it would end up before this commission.
Cost- he can not move out and rent both places. He has to live in one or the other.

Infavor- no one

Against-
John Walsh
John Whiteman
Ken Nizeck

The concerns included, someone recovering from an addiction so close to a bus stop, rental property not having the same investment as someone who lives there, additional traffic.

There was a question if everyone got correct notice.

Upon a motion by Cmsr. Corbiere and seconded by Cmsr. Hershman, it was unanimously voted to table the application to the next meeting.


Present for the applicant: Cliff Gurnham, Andrew Bevilacqua, Elliot Oshana

There is an existing 2000 gallon tank, that will be removed and a new 10,000 gallon tank will be installed. It will be a double walled tank on a concrete pad. Wetlands approved it already; there will be no changes to the bus circulation.

Cmsr. Bower read a letter from Health Director and the Inland Wetlands commission into the record. Mr. Magee read his letter into the record.

Bevilacqua- Stormwater sampling is required by the DEEP permit.
Cost- How far from a house is this tank?
The site plan map was shown.
Cost- the canopy that keeps the water off, does it have a flat roof? Why not a pitched roof?
Bevilacqua- it is a standard system like a gas station.
Oshana- The contingency plan is based on the DOT contingency for their sites.
Grigsby- If the tank gets a leak does it go on the ground or into a containment system?
Oshana- If the tank springs a leak it will go into the space in the second tank. This interstitial space has a sensor in it.

Cmsr- if the nozzle freezes is there a shut off?
Oshana- Yes there is a big red panic button.
Gurnham- There is a fence around the property, it does need to be fixed. There is a sheer valve.
Cost- The security is it hard to get through?
Gurnham- A motion censored camera can be installed easy.
Magee- The letter in response to my questions says Mr. Reidell does stormwater sampling. Does that get done by the BOE?
Gurnham- the bus company does it but it is the board of education’s responsibility.

No one spoke infavor or against.
The hearing closed at 9:24pm


Present for the applicant: Doug Hoon

I’m applying for a special permit for a machine shop to do a greater amount of work. I do product design.
There will be no change with the number of employees or traffic. There are no structural changes.
Cmsr. Bower read Health Director Dennis Johnson’s letter into the record.

No one spoke infavor or against.
The hearing closed at 9:26 pm
REGULAR MEETING

APPROVAL OF REVISED AGENDA –
Upon a motion by Cmsr. Hershman and seconded by Cmsr. Corbiere, it was unanimously voted to approve the agenda.

A. Deliberation of Public Hearing Items

Lombard
Upon a motion by Cmsr. Corbiere and seconded by Cmsr. Cost, it was voted to approve the application.

Voted: That the Guilford Planning and Zoning Commission approve a Special Permit for an Accessory Apartment for Martha Lombard at 33 Lover’s Lane, Map 40, Lot 149, as shown on “Zoning Location Survey for Martha P. Lombard”, dated October 30, 2013, revised to 11-9-13, prepared by Anderson Engineering and Surveying Associates and a photo simulation of a proposed dwelling, “Lombard Plan Photo Simulation”, dated 12/18/13.

This application is approved with the following conditions;
1. That prior to issuance of a certificate of occupancy, the septic system serving the proposed apartment shall be enlarged to accommodate the extra apartment bedroom.

This application is approved based upon a finding that it conforms with the Zoning Code. The Special Permit is effective on December 27, 2013 and upon filing with the Town Clerk.

Discussion

Corbiere- Concerned that it was two buildings. If the connection is removed down the road what’s to stop them?
Reid- When you approve a special permit the plan is also approved and any changes other than architectural have to come back to the commission.
Grigsby- I don’t think that it maintains the appearance as single family dwelling. There is a sense of playing with the regulations and to manipulate the commission to defy that it is wholly attached. Attaching it with bailing wire, chewing gum and duct tape is not sufficient. They could have gone for a variance and it probably would have been granted. It is effectively a mostly detached building. It’s an ornamental attachment with a complicated explanation.
Corbiere- Its similar to the Lombardi garage. Aging in place for 9 months a year translates to rental for 3 to me. It’s a connected prefab building.
Cost- We got a lawyers opinion and we are back to the same place as we were. Common sense should prevail it is on a large lot, with no view issues. This town has encouraged accessory apartments because people can not afford to live hear.
Corbiere- Weather it is a prefab set in place or 2x4’s nailed together on site makes no difference. I am persuaded to vote for it.

INFAVOR: Hershman, Cost, Corbiere
OPPOSED: Grigsby, Bower
ABSTAINED: None
The motion carries: 3-2-0

Upon a motion by Cmsr. Corbiere and seconded by Cmsr. Cost, it was unanimously voted to change the effective date to January 24, 2014.

Vieau

Town of Guilford
Upon a motion by Cmsr. Hershman and seconded by Cmsr. Cost, it was unanimously voted to approve the application.


This application is approved with the following conditions:
1. A motion sensor camera with notification be installed.
2. That the site be secured when not staffed.
3. Add curb if not there already around southeast storm drain.
4. That Kevin Magee’s letter be included.

January 15, 2014
To: Guilford Planning & Zoning Commission
From: Kevin Magee, Environmental Planner
RE: Groundwater Protection Overlay Zone
Special Permit
Guilford Public Schools Bus Yard
101 Hubbard Road
Guilford, Connecticut 06437
Assessor Map79Lot 9-2B

The Guilford School System is proposing to replace an existing 2,000 gallon diesel tank with a 10,000 gallon double wall diesel tank in a Groundwater Protection Overlay Zone. The plans provided indicate that the tank will be placed under a canopy and that any fuel spilled with the disconnecting of the fueling truck would be captured in a containment system. The school system has prepared an Integrated Contingency Plan which contains a Stormwater Pollution Prevention Plan and a Spill Prevention Control and Countermeasures Plan that is required as part of the special permit. A review of the Integrated Contingency Plan revealed that several sections require additional information which are noted below:

1. Section 4, Should the Board of Education be part of the notification system?
2. Section 4, Spill Response Plan should provide a list and quantity of equipment needed to contain a spill such as absorbent material, booms, and pads. The plan should also note the locations where this material is stored.
3. Section 5, Identify on the inspection sheets the type of sampling period (weekly, monthly, quarterly).
4. Section 5, Add to inspection sheets the inspection of the asphalt parking lot for cracks which should be sealed.
5. Section 10, the Best Management Practices and Stormwater plan should indicate that the parking lot and catch basins should be cleaned by the end of May and when inspections reveal 12 inches or more of sediment in the sumps. During weekly monitoring the catch basin should be inspected for debris and floatable materials.
6. Section 12, Who is responsible for conducting the inspection of oil water separator and conducting storm water sampling?
7. Provide copies of inspection sheets in Appendix G.

I recommend as a condition of approval that prior to the installation of the new aboveground diesel tank that the Integrated Contingency Plan be revised to address the above information. In addition, since the project is located in a Groundwater Protection overlay Zone, the applicant is subject to Section 273-92 F (5) Permit Standards and Conditions. I also recommend that commission attaches to the approval letter the conditions in Section 273-92 F (5) noted below:

(5) Permit Standards and Conditions
(a) Every regulated activity, including ancillary activities, authorized pursuant to a Groundwater Protection Overlay Zone Special Permit shall conform to the following standards:
[1] Storage of hazardous materials within an aquifer protection overlay zone shall conform to the following requirements:
[b] Hazardous materials shall be stored in an enclosed structure or under a roof which minimizes stormwater entry to the primary and secondary containment areas.
Hazardous materials shall be stored within an impermeable, structurally diked containment area with a minimum secondary containment of at least 150% to contain any leaks or spills with no overflow of released hazardous materials from the containment area. The containment area shall have no drains.

Hazardous materials shall be stored in a manner that will prevent the contact of chemicals with such hazardous materials so as to create a hazard of fire, explosion, or the generation of toxic substances.

Hazardous materials shall be stored only in areas that are secured against entry by the public.

These storage requirements are intended to supplement, and not to supersede, any other applicable requirement of federal, state, or local law, including applicable requirements of the Resource Conservation and Recovery Act of 1976, as amended.

All regulated activities, including ancillary activities, shall comply with all appropriate federal, state, and local standards for the collection, handling, manufacture, use, storage, transfer, and disposal of all hazardous waste.

**b) Each permit granted shall be subject to the following conditions:**

1. That the owner or operator of an approved regulated activity shall complete all work and comply with all conditions of approval within five years after the date a copy of the permit is filed and recorded with the Town Clerk pursuant to Section 8-3c(b) and Section 8-3d of the General Statutes. Failure to complete all such work and comply with all such permit conditions shall render the permit subject to being declared null and void by the Commission after a hearing held by the Commission on the matter. The Commission may, however, extend the time to complete the work and to comply with permit conditions, for good cause shown in an application for extension filed by the owner or operator no fewer than sixty days before date the time to complete and comply will expire.

2. That the owner of an approved regulated activity shall file and record a copy of the permit with the Town Clerk as set forth in Section 8-3c (b) and Section 8-3d of the General Statutes within thirty days of the date the Commission approves the permit.

3. If the regulated activity, including any ancillary activities, involves the use or storage of hazardous material the quantity of which at any one time exceeds one percent (1.0 %) of the reportable quantity for that material set forth in 40 C.F.R. 302.4 or exceeds fifty-five gallons, or its equivalent in kilograms or pounds, whichever quantity is less, then the Commission may attach the following conditions to the permit:
   1. That the owner and operator hire a Certified Hazardous Materials Manager to conduct periodic inspections of the property and operations there to determine if the best management practices plan is being followed. Within ten days after his inspection, the Manager shall prepare and submit a sealed, written report to the Commission certifying that the operations are being conducted in accordance with the best management practices plan. The cost of such inspections and report shall be borne by the owner or operator. The inspections and reports may be required at any interval deemed appropriate by the Commission, but not more frequently than monthly.
   2. That the owner or operator hire a Certified Hazardous Materials Manager to conduct periodic inspections of catch basins and other protective devices to determine if they are functioning as required. Within ten days after his inspection, the Manager shall prepare and submit a sealed, written report to the Commission certifying that catch basins and other protective devices are functioning as required. The cost of such inspections and report shall be borne by the owner or operator. The inspections and reports may be required at any interval deemed appropriate by the Commission, but not more frequently than monthly.
   3. That the owner or operator hire a Certified Hazardous Materials Manager to conduct periodic evaluations of the use(s) being conducted at the site to determine if they are being conducted as proposed and in accordance with the terms of the Commission’s permit. Within ten days after his inspection, the Manager shall prepare and submit a sealed, written report to the Commission certifying that the use(s) are being conducted as proposed and in accordance with the terms of the Commission’s permit and exemption (if any). The cost of such evaluations and report shall be borne by the owner or operator. The evaluations and reports may be required at any interval deemed appropriate by the Commission, but not more frequently than monthly.
   4. That the owner or operator establish a record-keeping system to account for the types, quantities, and disposition of any such hazardous materials which are used, stored, or otherwise handled at the property or which are discharged or emitted there from. The records shall identify the individual(s) who are responsible for maintaining the record-keeping system. The records shall be maintained at the property and shall be available for inspection there, during normal business hours, by the Town.
(d) The Commission may attach such additional conditions to the permit as it deems necessary to protect
the public health, safety, convenience, and property values, provided such conditions are related to
the purpose of groundwater protection and intended to carry out the legislative findings and purposes
of these Regulations. In determining such additional conditions, the Commission shall be guided by
the most recent DEEP guidelines.

It is my recommendations that the inspection noted above be conducted on a quarterly basis.
This application is approved based upon a finding that it conforms with 273-92F of the Zoning Code. The
Special Permit is effective on January 24, 21014 and upon filing with the Town Clerk.

Discussion
Bower- It is an improvement over what is there. There will be more fuel but there will be extra
security.
Corbiere- This will reduce the number of trips to refuel the tank.

The motion carries 5-0-0

Hoon
Upon a motion by Cmsr. Hershman and seconded by Cmsr. Corbiere, it was unanimously voted to
approve the application.

Voted: That the Guilford Planning and Zoning Commission approve a Special Permit for Douglas
Hoon at 93 Water Street, Map 32, Lot 29 for home handicraft industry as shown on an application

This application is approved based upon a finding that it conforms with the Zoning Code. The
Special Permit is effective on January 24, 2014, and upon filing with the Town Clerk.

The motion carries 5-0-0

B. Site Plan

1. Russo, Keith, 965 Boston Post Road, Map 46, Lot 124A, Zone PV. Site Plan change of use from
personal service establishment to recreational facility. Table 5, Line 26. Receive and take action.
Upon a motion by Cmsr. Cost and seconded by Cmsr. Corbiere, it was unanimously voted to receive the
application.
Present for the applicant: Jen Cuin
This is for an indoor cycling studio

Upon a motion by Cmsr. Corbiere and seconded by Cmsr. Hershman, it was unanimously voted to approve
the application.

Voted: That the Guilford Planning and Zoning Commission approve a Site Plan application for a change of
use from personal service to recreation facility at 965 Boston Post Rd., Map 46, Lot 124A as shown in an
application dated 1-14-14.

This application is approved based upon a finding that it conforms with the Zoning Code.

The motion carries 5-0-0

C. Applications to be Received

a. Special Permits
b. Coastal Area Management Site Plan

1. Camp, Phillip & Lauren, 299 Old Sachems Head Road, Map 3 &4, Lot 30 & 9A, Zone R-5.
   Coastal area management site plan demolition and construction of a new residence, related
   construction activities, and a new septic system within 100’ of critical coastal resource. §273-91.
   Receive and set public hearing date 2/5/14.
   Upon a motion by Cmsr. Cost and seconded by Cmsr. Hershman, it was unanimously voted to receive
   the application and set a public hearing date of 2/5/14.

C. Site Plan

D. Correspondence

E. Other

1. Adopt resolution endorsing submission of Pre-development grant application for assistance under
   the State of Connecticut Housing for Economic Growth Program and certify that the Commission will
   consider the creation of one or more housing incentive zones.
   This is to get a grant to have professional services consultants look at possible affordable housing,
   sewage possibilities, etc.
   Cost- why are we doing this now?
   Kral- I was asked to work on this by the Guilford Housing Partnership and the Guilford Foundation.

   Upon a motion by Cmsr. Corbiere and seconded by Cmsr. Hershman, it was voted to approve the resolution.

   1. Endorses the submission of a Pre-development grant application for assistance under the Housing
      for Economic Growth Program referenced in Section 8-13 (m-x) of CGS and as described in the
      attached “Housing for Economic Growth, Pre-Development Application, Guilford CT”, dated January
      13, 2014, and,

   2. Certifies that it will consider the creation of one or more housing incentive zones as described in the
      above document.

INFAVOR: Hershman, Bower, Corbiere
OPPOSED: Grigsby, Cost
ABSTAINED: None
The motion carries: 3-2-0

The commission took a 5 minute break.

2. Set date for consideration of Town of Guilford Community Coastal Resilience Plan July 31, 2013
   as an amendment to the Plan of Conservation and Development (possible joint Public Hearing with
   the Board of Selectmen).
   Upon a motion by Cmsr. Cost and seconded by Cmsr. Hershman, it was unanimously voted to set a
   public hearing date of February 19th.

3. Approval to invoke Municipal Fine Citation and issue fines to Russ Smith, Amity Construction, for
   any future work outside condition #9 work hours (see below).

   Condition #9 of the approval granted on February 03, 2010 for the Benton’s Knoll PRD states that
   hours of construction to be only between 7AM - 4PM, Monday - Friday and 8AM - 12PM on Saturday
   and no heavy equipment shall be moved or driven on or off the site on Saturdays.

   Guilford Town Code, Article II, Penalties for Offenses, Citations for zoning violations. ZEO may issue
   citations for zoning violations only after approval by the Planning and Zoning Commission.
Ms. Reid explained that the neighbors believe the town should start fining the developer because there were 5 days in December that they worked over the time frame.
Ms. Reid went over her memo, and the letter of response from the Developer. I checked with town counsel and since the work hours are a condition of approval, going over them is a zoning violation. Hershman- 6-7 of these violations are within 20 minutes.
Reid- the neighbors are very serious.
Bower- While these are not the developers fault, the subs need to take responsibility, but some discretion should be used.
Reid- the contracts with the subs have the work hours and they are posted on the site.
Cmsr- If there is a violation on Sunday, how do we know it is accurate.
Reid- The neighbors can send me pictures or audio from their phones. It’s so easy these days.
Grigsby- I have heard of worse violations, but if this will empower you and get their act together then its ok.

Upon a motion by Cmsr. Bower and seconded by Cmsr. Corbiere, it was unanimously voted to give the Zoning Enforcement Officer the authority from tomorrow forward and at her discretion to levy fines.

F. Committees

Bower- I have asked both nominating committees for possible candidates as we have vacancies.

Planning Committee

Zoning Committee

Route One West Committee
Since propane is very controversial and overwhelms everything else. The committee has been put on hold for 90 days until April.

Bower- One of the table 5 recommendations that needed more study was adult entertainment. Cmsr. Hershman has agreed to be the chair of an ad hoc committee.
Corbiere a moratorium should be considered.
Mr. Kral will draft a proposal with the input of town counsel.

G. Approval of Bills

1. Shore Publishing - $164.51
2. New Haven Register - $229.51
3. W B Mason- $24

Upon a motion by Cmsr. Cost and seconded by Cmsr. Corbiere, it was unanimously voted to pay the bills.

H. Approval of Minutes

12/18/13 regular meeting
Put on agenda next meeting.

Adjourn
Then, with no further business before it, upon a motion by Cmsr. Bower and seconded by Cmsr. Cost, it was unanimously voted to adjourn the meeting of the Guilford Planning and Zoning Commission at approximately 10:40 p.m.

Respectfully submitted,