

**Town of Greenwich
Planning Board Meeting Minutes
02/18/2010**

Call to Order: Chairman Tomkins called the meeting to order at 7:00 pm.

Members Present: William Tomkins, Jeff Duxbury, Dan Spigner, Carl Thygesen, Kyle Vandewater, Michelle Wright and John Mattison.

Also Present: Clerk Kellie Blake, Planning & Zoning Board Attorney Tony Izzo and Code Enforcement Officer Dan O'Connor.

Members of the public who signed the attendance sheet: Patsy Ciccarone, ZBA Chairman - John Farndell, ZBA Members: Dawn Sharts, Tammara VanRyn and Gregory Smith and ZBA Clerk Amanda Willetts.

Old Business:

02/11/2010

Minor Subdivision # 482 – Patsy & Joan Ciccarone, 415 Riddle Road. Application for a two lot subdivision of a 6.82 acre parcel. One lot of 2.00 +/- acres with an existing house, well, septic and driveway off of County Route 49. One lot of 4.82 +/- acres with an existing house, well, septic and driveway off of Riddle Road. Tax Map ID # 198.-1-12.3. Parcel is located in the Rural Agricultural Zoning District. Mr. Ciccarone was in attendance. The Board reviewed the application at the Work Meeting last week and the only item needed is the Subdivision number on the map.

Resolution # 10-2010
Application Complete/Public Hearing Set

Resolution by Jeff Duxbury
Seconded by Michelle Wright

and passed unanimously by said Board;

RESOLVED, that contingent upon receipt of updated maps with the addition of the subdivision number that Minor Subdivision # 482 be deemed complete and a public hearing be set for 7:15 pm on Thursday, March 18, 2010.

Fees Received: \$100.00 Application Fee (check # 1468) , \$49.86 Public Hearing notice mailing fees (check # 3159).

Resolution # 11-2010
Acceptance of Minutes

Resolution by John Mattison
Seconded by Carl Thygesen

and passed unanimously by said Board;

RESOLVED, that the minutes of the January 14th and January 21st Planning Board Meetings be approved as submitted.

Correspondence:

- Letter received from Washington County Clerk – Minor Subdivision # 476-Cristaldi maps were filed.

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Joint Meeting with Zoning Board of Appeals – potential Zoning Ordinance changes:

(1) 190-77, B. Substantial damage or destruction. *In the event that any nonconforming structure or use is substantially damaged or destroyed, by any means other than demolition, to the extent of more than 50% of the cost of replacement of such structure new, proof should be supplied by the applicant in written estimate form of replacement value and work to be done by a minimum of two reputable agencies. ***Such structure shall not be restored unless, if within 30 days after the substantial damage, the owner of said nonconforming use notifies the Code Enforcement Officer, in writing, of his intent to restore said nonconforming use substantially to the conditions existing prior to the disaster.** It is the owner's responsibility to provide documentation of existing nonconforming conditions prior to the disaster to satisfy the Code Enforcement Officer. In that instance, the Code Enforcement Officer shall permit the issuance of a building permit within 30 days of receipt of the written notice of intent for such substantial restoration without further action. Restoration under this section shall be commenced within six months of the date of issuance of a building permit, and restoration shall be completed within one year of the issuance of the building permit. In the event that the Code Enforcement Officer is not notified of the intent to restore the nonconforming use within the time limit stated, such structure shall not be restored unless the structure and use thereof shall conform to all current regulations of this chapter.*

The Board Members present would like to change the paragraph to read:

****Such structure shall not be restored unless, if within 1 (one) year after the substantial damage, the owner of said nonconforming use notifies the Code Enforcement Officer, in writing, of his intent to restore said nonconforming use substantially to the conditions existing prior to the disaster***

(2) LIVERY:

Discussion:

Planning/Zoning Board Attorney Tony Izzo stated that he had distributed a definition for the Boards to review from the Saratoga Springs Taxi Cab Ordinance, which he had written.

Taxi Cab – any motor vehicle which is engaged in the business of carrying persons for hire, except:

- A. Vehicles subject to the Transportation Corporation Law;*
- B. Vehicles used by undertakers and funeral directors in the course of their business;*
- C. Vehicles used exclusively by or under agreement with a hotel, hospital, club or other entity for the purpose of transporting members, guests, patients or clients;*
- D. Vehicles that carry persons by appointment only and subject to previously agreed terms and conditions.*

John Farndell stated that this wasn't exactly what the Boards were looking for. An issue came up that someone has a bus system that carries clients and also stores the buses on their property. The name livery sounded more general.

Discussion followed and the definition of Livery is: A business which transports people by motor vehicle for a fee and may include facilities for the storage and/or maintenance of said vehicles. Excludes situations where no fee is charged.

Question regarding Van-Go or school buses. The definition of Livery would not include organizations like hospitals, church groups or schools. Michelle Wright asked if we should omit school buses. Tony Izzo stated that they don't charge a fee for transporting people. Chairman Tomkins stated that part of the school and churches is transporting people without charging a fee. The minutes should reflect that these types of things are not included in the definition of Livery.

Add definition of Livery to Article II, Definitions, Section 167-3:

Livery: A business which transports people by motor vehicle for a fee and may include facilities for the storage and/or maintenance of said vehicles. Excludes situations where no fee is charged.

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Addition to Use Table as:

USE	Rural Agricultural District	Residential District	Hamlet/ Mixed-Use District	Commercial District	Industrial District
Livery	SUP				SPR

Addition to Rural Agricultural District Area Requirements:

USE	Minimum Lot Size (acres)	Minimum Road Frontage (feet)	Minimum Front Yard Setback (feet)	Minimum Side Yard Setback (feet)	Minimum Rear Yard Setback (feet)	Maximum Height (feet)	Maximum Lot Coverage
Livery	3	300	50/75	50	50	50	20%

Addition to Industrial District Area Requirements

USE	Minimum Lot Size (acres)	Minimum Road Frontage (feet)	Minimum Front Yard Setback (feet)	Minimum Side Yard Setback (feet)	Minimum Rear Yard Setback (feet)	Maximum Height (feet)	Maximum Lot Coverage
Livery	1	None	50	35/50	15	60	60%

Jeff Duxbury wanted to make sure parking the vehicles would not be within the setbacks. Chairman Tomkins stated that parking would be an issue when the Special Use Permit for the Livery Business was reviewed by the Planning Board.

(3) CURRENT DEFINITION: AGRICULTURAL STRUCTURE- Any barn, stable, shed, silo, garage, farm housing, farm stand less than 500 square feet, observation tower or other structure directly and customarily associated with agriculture or forest management activities.*

POSSIBLE AMENDMENT:

Adding at the end of definition * **and used in connection with an agricultural use.**

Discussion: Chairman Tomkins stated that the goal in changing this definition was to not allow something that was clearly not agricultural to be called agricultural and therefore not have to meet setback requirements. Suppose someone has a barn and starts selling something out of the old milk house section of the barn, does that mean it is not agricultural anymore?

Tamarra VanRyn stated that the issue that had come up was about setbacks in the use table. If you have a barn there are no setback requirements, we wanted to make sure that the setback requirements were triggered when you change the use to something other than agricultural use.

Jeff Duxbury asked if we were dealing with new construction or things already built. It would be a change of use if it was a barn and then someone put a store in it.

Tony Izzo stated that you could quantify a percentage of use, that if you use 50% for something other than agriculture than they would have to meet the setback requirements.

Tamarra VanRyn stated that this isn't just for future use, if someone was going to subdivide and the dividing line was right next to the barn there would be no setback requirement if it was for agricultural use.

Michelle Wright asked how will the Planning Board know if a barn is or is not going to be used in the future for agriculture use when a subdivision is occurring?

Tamarra VanRyn stated that they would not be exempt from the setbacks if they wanted to subdivide the property. Chairman Tomkins stated that this definition would be used for two things: 1. A new building is being constructed. 2. A new line is being created for a subdivision.

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Tony Izzo stated that the best thing you can do is come up with a good clear guideline so the enforcement official has a clear guideline to work with.

More discussion ensued and the Planning and Zoning Board Members present concurred with adding "and used in connection with an agricultural use." to the last sentence of the current definition.

Change definition of Agricultural Structure in Article II, Definitions, Section 167-3:

AGRICULTURAL STRUCTURE- Any barn, stable, shed, silo, garage, farm housing, farm stand less than 500 square feet, observation tower or other structure directly and customarily associated with agriculture or forest management activities **and used in connection with an agricultural use.**

(4) AUCTION FACILITY: *Tony Izzo offered the following definition for discussion - any building or area or part of a building or area used for the public sale of goods, wares or merchandise to the highest bidder. This definition includes but is not limited to the sale of _____ but excludes the sale of _____.*

Discussion:

Greg Smith stated that two kinds of auction barns were intended, one for equipment, goods and machinery and one for livestock. There are different concerns and issues associated with selling livestock as opposed to merchandise. Chairman Tomkins stated that we are allowing it in the Rural Ag District.

Michelle Wright stated that if you are allowing livestock auctions you will need to allow for the disposal of manure, room for trucks and trailers, etc.

John Farndell stated that in his opinion, this would be a Special Use Permit and the Planning Board has the say as to where parking would be, manure disposal, etc.

Chairman Tomkins stated that having the use require a Special Use Permit would be better than saying what is included or excluded from an auction facility.

Michelle Wright asked if there would be a minimum lot size. Discussion ensued and the Boards decided that a minimum lot size of 5 acres would be required.

Tamarra VanRyn stated that there had been discussion regarding an exemption for a one time use for dispersing of private property or like a liquidation sale at K-Mart.

Chairman Tomkins stated that the definition currently includes everything; we need to come up with language to exclude the one time auction sale.

Carl Thygesen stated that you could say once per year. As an example he stated what if a farmer sold his livestock this year but need to sell the machinery next year, mainly for tax purposes.

Michelle Wright wanted to make sure we were not having a one time auction fall under this definition. She was assured that was not the case.

Tony Izzo stated that you could add to the definition the following: Excludes liquidation or inventory reduction sales conducted no more than once per year.

Dan O'Connor stated why not twice a year that would allow for the auction of the animals at one auction and the equipment at another.

Jeff Duxbury asked Tony, if the farmer auctioned in January and needed to have another one in June could they ask for a variance?

Tony Izzo stated that would be difficult, if you limit it to one auction or liquidation sale per year and a person decides that they need to do it more than once per year would probably be a use variance situation. A use variance has to prove that you can't use the property for any permitted use at all unless you can get the right to have another auction. That would be very difficult. John Farndell stated that he had asked Tony about this in a timing matter and Tony stated that an area variance could be used. Tony stated that he would have to look that up again.

John Mattison asked about an inventory reduction auction at his place of business, would that be permitted? Chairman Tomkins stated that John already had an existing retail business, that would not be an auction facility just the commercial business operating. How it is sold doesn't matter. It is the Board's opinion that an inventory dispersal or farm auction is not an auction facility.

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More discussion ensued and the Board Members present decided on the following definition being added to **Article II, Definitions, Section 167-3:**

AUCTION FACILITY: *Any building or area or part of a building or area primarily used for the public sale of goods, wares, merchandise or livestock to the highest bidder.*

Addition to the Use Table as:

USE	Rural Agricultural District	Residential District	Hamlet/Mixed-Use District	Commercial District	Industrial District
Auction Facility	SUP				

Addition to Rural Agricultural District Area Requirements:

USE	Minimum Lot Size (acres)	Minimum Road Frontage (feet)	Minimum Front Yard Setback (feet)	Minimum Side Yard Setback (feet)	Minimum Rear Yard Setback (feet)	Maximum Height (feet)	Maximum Lot Coverage
Auction Facility	5	300	50/75	50	50	50	20%

(5) Signs: At the last Planning Board/ZBA joint meeting there was discussion regarding changing **Article VIII – Signs. D. (1) An off-site commercial sign with a face size in excess of 10 square feet to in excess of 4 square feet.** Chairman Tomkins stated that he thought 10 sq. ft. was too large but was not sure what size would be ok. The Board Members present had a discussion and decided to lower the size from 10 sq. ft. to 6 sq. ft.

Change – Article VIII Signs. D. (1) to read: An off-site commercial sign with a face in excess of 6 square feet.

Discussion ensued regarding a parcel containing a shopping center with several separate stores. Each store is allowed one wall-mounted sign. The parcel (lot) is allowed one free-standing commercial sign. A question came up regarding the K-Mart plaza and McDonalds. The parcels are two separate lots owned by the same company. Wasn't there something in the Zoning Regulations regarding contiguous lots owned by the same person or company? The language is located in Section 190-71 Subdivision standards. B. Within the Rural Agricultural District, the three-hundred-foot frontage requirement in the area table does not apply, provided that no more than four lots are being subdivided and all of which have access to a public, Town, county or state highway, from a parcel from the date of enactment of this chapter. **For purposes of this section, parcels that are contiguous and in the same ownership at the time of enactment of this chapter shall be considered to be a single parcel for all subsequent subdivisions.**

Discussion ensued regarding a previous ZBA interpretation of the sign ordinance. (See attached) The Board Members present and Attorney Izzo agreed with the ZBA's interpretation.

Chairman Tomkins asked Attorney Izzo if the ZBA's interpretation would hold up in court. Tony stated that the ZBA has the power to issue interpretations. They are susceptible to a challenge in court but the ZBA has the authority to issue interpretations.

John Farndell stated that another potential issue in the sign ordinance is located in Section 190:61 C. which states: *It shall be unlawful to erect or maintain the following types of signs at any location in the Town unless otherwise noted herein: (3) any animated signs.*

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Greg Smith stated that digital signs have been introduced and will be used more in the future and he feels that they are intrusive. Would a digital sign where the content changes every few seconds be considered animated? Attorney Izzo stated that he thinks the current language in the Zoning Ordinance would probably be upheld in court. If someone were to put up a sign like Greg described and the Board said that was an animated sign and is not allowed, it seems that a court would go along with that. The type of sign Greg described does not remain the same, it changes, and therefore it is animated. Greg stated that these types of signs may be put in store windows also. More discussion ensued regarding neon signs inside store windows, some Board Members did not like them and some didn't mind them.

John Farndell asked what the next step would be. Chairman Tomkins stated that the process is that the Planning Board recommends changes to the Town Board. Zoning Ordinance Section 190-93 Amendments states:

A. Amendments by the Town Board. The Town Board may, from time to time, on its own motion or by recommendation or petition of the Planning Board, amend, supplement, change, modify or repeal the regulations and provisions of this chapter following a public hearing and in accordance with this article.

B. Advisory Report by the Planning Board. Each such proposed amendment or change shall be referred to the Planning Board for report thereon before public hearing in front of the Town Board. The Planning Board shall submit to the Town Board its advisory report within 30 days after receiving notice from the Town Clerk of the proposed change. The failure to make such report within 30 days shall be deemed to be a favorable recommendation.

A motion to adjourn the meeting at 8:45 pm was made by Dan Spigner, 2nd by Michelle Wright

Respectfully Submitted,

Kellie A. Blake
Planning Board Clerk