

Special Meeting

The 1537th meeting of the Town of Stonington's Planning and Zoning Commission was held Tuesday, March 3, 2015 at the Mystic Middle School, 204 Mistuxet Avenue, Mystic, CT. The meeting was called to order by Chairman Ben Tamsky at 7:06pm. Present for the meeting were Commissioners Ben Tamsky, Bob Mercer, Curtis Lynch, John Prue, and Frances Hoffman; Alternates Shaun Savoie and Gardner Young, and Town Planner Keith Brynes.

Seated for the meeting were Ben Tamsky, Bob Mercer, Curtis Lynch, Frances Hoffman, and John Prue.

Minutes:

Ms. Hoffman motioned to approve the minutes of January 20, 2015, seconded by Mr. Lynch. Motion approved 4-0-1.

Roll Call: Tamsky – approve, Mercer – approve, Lynch – approve, Prue – approve, Hoffman – abstain

Commission Initiatives:

Discussion of POCD – Mr. Brynes reported that the Board of Selectmen will hold a public hearing for the POCD on March 25, 2015, and their responsibility to provide any disapprovals, recommendations, or comments to the PZC for review. It was agreed that Board of Selectman comments should be forwarded to the PZC as soon as possible.

Reports - Commission:

Discussion with the Town Attorney regarding the procedure for proposed modification of drainage design for Toll Brothers' Old Mystic Estates Subdivision (PZ0360SD, SUP & GPP Meehan). Discussion is related to the Toll Brothers proposed settlement of their CT Superior Court Appeal against the Planning and Zoning Commission.

Town Attorney Tom Londregan was unable to attend the meeting due to inclement weather.

Toll Bros. Attorney, Joe Williams, explained the process for acceptance of the proposed settlement, noting that an application has been submitted to the Wetlands Commission and to DEEP. Commissioners discussed their concerns regarding lack of a formal application to the PZC, DEEP's concerns/acceptance, correction of the McGlinchey's drainage issues, and the PZC's wish for a full presentation of the proposed settlement plan. Attorney Williams explained that pre-application meetings with DEEP have been held and should they not approve their application, the settlement can't go forward. Gary Julian of 50 Riverbend Dr. asked how the process would proceed. Mr. Brynes explained that plans and engineering report have been received but not the draft settlement. He also noted that the Court must also approve the settlement, holding a public hearing to allow anyone to speak. The McGlinchey's attorney, Bill Sweeney, stated that Atty. Londregan had been keeping his clients up-to-date and that they had seen the IWWC application for the proposed drainage improvements. Ms. Hoffman wished to have the plans and engineering report submitted to DEEP and the Mystic Harbor Management Commission. Commission agreed to hold the Public Hearing for the proposed settlement on April 7, 2015.

Public Hearing(s): 7:30 p.m.

Ms. Hoffman read the call for the Public Hearing at 7:45pm.

PZ1503SUP Stonington Vineyards, Inc. - Special Use Permit application requesting extension of the 9:00PM limitation of amplified music to 10:00PM (revised to 9:30PM), in accordance with the Town of Stonington Noise Ordinance. Amend PZ9742SUP stipulation of approval #1 to reflect extension to 10:00PM (revised to 9:30PM). Property located at 523 Taugwonk Rd., Stonington. Assessor's Map 68 Block 1 Lot 1. Zone GBR-130.

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Stonington Vineyard owner Happy Smith presented her application requesting an extension of amplified music hours to 9:30 pm, explaining that it is necessary in order to hold a few more evening weddings or special events during the season. She explained that they only have two festivals a year, both of which begin at noon and end at 6:00pm, and in the previous season, had only 2 weddings. She stated that, with the placement of the decibel meter, which she has, she would be able to control the noise levels of weddings. She noted that their outdoor season runs from May 1st to the first week in October. She submitted letters of support from her immediate neighbors and others. Ebbie Elmer, Vineyard Event Coordinator, explained that they are not looking to be a "wedding factory," the average number of wedding guests is 120-150, they only wish to do 4-6 weddings a season, and they have sufficient parking for all events.

Mr. Brynes reviewed the proposal and the existing special use permit for the site which clarifies the uses and restrictions currently allowed. He noted that the Police Commission has no concerns with the proposal, and stated that multiple waives have been requested since there is no proposed construction. Mr. Brynes explained the State statute governing creation of a Town Noise Ordinance and the difficulty in enforcing one.

Public Comment in Favor:

Jim Kelley, 439 Taugwonk Rd., read a letter from he and his wife, Mary, stating that in 18 years they have never been disturbed by the events held at the Vineyard, they feel that the owners are considerate neighbors, and are grateful to live adjoining the vineyard property. Mr. & Mrs. Kelley are in favor of the request.

Dan Booker, 456 Taugwonk Rd., in favor of the request and consider them to be model neighbors – considerate and supportive of neighborhood functions

Wes Maxwell, 369 Taugwonk Rd., has lived there since before the Vineyard, and considers them a great neighbor, enjoys the music, and would like to see them be able to stay open until 10:00pm.

Public Comment in Opposition: None - Although all of the speakers below signed up and spoke under General Comments, some of their comments were in opposition.

Public General Comments:

Joyce Fingerut, 537 Taugwonk Rd., read a letter from she and her husband, Jerry, stated that the prevailing winds carry the noise north to their house and it is very loud. She and her husband don't oppose the request to extend the hours, but would like to see an actively monitored noise program, with a return to the PZC for review after 18 months. In response to Mr. Mercer's question as to how long the Fingeruts have resided at that address she replied they bought the land sight unseen after the Vineyard was already established.

Ms. Fingerut read a letter from Bill Lyman, 579 Taugwonk Rd., which referenced the previous approval requirements and suggested diligence in sound mitigating practices and turning down the volume of amplified sound.

Lee Cashman, 539 Taugwonk Rd., read a letter from he and his wife, Karen, stating their displeasure with misdirected persons looking for the Vineyard turning in their driveway and across "a swath" of their lawn, and the "excessive noise" coming from outdoor events, finding it disturbing, annoying, and embarrassing during their work, relaxing, and social times. They proposed improved directional signage to Stonington Vineyards, denial of the requested time extension to 9:30pm, determination and monitoring of maximum decibel output, document recourse to be taken if noise/activities necessitate intervention, and a return to the commission in one year to assess compliance.

Karen Cashman read a letter to the Police Commission from Susan Surova, 537 Taugwonk Rd., regarding the Town's creation of a Noise Ordinance, detailing her long term noise issues with the Vineyard, stating there were two loud weddings the previous year. She had questions and suggestions regarding decibel level and measurement.

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Robert Rafka, 455 Taugwonk Rd., does not like hearing the kinds of music played, he finds it to be bad, disturbing, and annoying; and he opposes the time extension.

Mr. Brynes provided the Commissioners with the names of those who wrote letters in favor of the application but did not speak.

Happy Smith spoke in rebuttal noting that the neighbors should have checked prior to building their homes to see what uses were permitted at a winery. She said that she can and does control the noise. Mr. Brynes asked if the sound panels had been tried and Ms. Smith replied that she had stopped having weddings so she did not have any sound panels erected. She explained that in 1998 she had a sound engineer investigate possible ways to mitigate the sound and he said she could reposition things but indicated that the most effective means is controlling the noise source.

Commissioners discussed the difficulty of enforcing a Noise Ordinance and using a decibel meter to monitor the level, coupled with Ms. Smith controlling the noise when it exceeded the allowable limit. Mr. Savoie asked if there were a means to limit the number of weddings held each year.

Mr. Prue motioned to close the public hearing, seconded by Ms. Hoffman. All in favor, 5-0.

The meeting recessed at 8:59 pm and reconvened at 9:04pm.

Old Business:

PZ1502CAM Patrick & Sheila Herlihy (Peter Springsteel) – Coastal Area Management Review for demolition & removal of an existing one-story single family residence and construction of a new two-story SFR. Property located at 365 River Rd., Pawcatuck. Assessor's Map 8 Block 3 Lot 3. Zone RR-80.

Mr. Prue motioned to table the application, seconded by Mr. Mercer. All in favor, 5-0.

PZ1418SUP & CAM Denison Pequotsepos Nature Center, Inc. - Special Use Permit & Coastal Area Management Review applications for the creation of a nature & heritage center. Site improvements include parking, sidewalks, trails, indoor and outdoor educational areas, and event spaces. Property located at 162 Greenmanville Ave., Mystic. Assessor's Map 172 Block 2 Lot 5. Zones RM-15 & RA-40. *Public hearing closed on 2/17/15.*

Seated for this application were Ben Tamsky, Curtis Lynch, Gardner Young, and John Prue.

Mr. Prue motioned to approve the CAM application, seconded by Mr. Young. All in favor, 4-0.

Mr. Prue motioned to approve the waiver requests, seconded by Mr. Young. All in favor.

Mr. Prue noted that he was concerned with the waiver of the traffic study given the general traffic issues in the Route 27 area, noting that this one application wasn't going to have a significant impact. Mr. Lynch agreed with Mr. Prue. Mr. Tamsky said he felt the impact from this site would be minimal, and Mr. Young noted that the CT DOT approved the application. Commissioners discussed thresholds for requiring traffic studies.

Mr. Prue motioned to approve the application with the 8 stipulations recommended by Staff with #8 to be determined by PZC during deliberations, seconded by Mr. Young. All in favor following deliberations.

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Mr. Lynch was concerned with the environmental impact of the 3 proposed parallel parking spaces along Clara Drive. Mr. Tamsky stated that all concerns would be addressed if/when the applicant returns to request them. Mr. Prue stated that the 3 additional spaces wouldn't adequately address Mr. McQuade's concerns regarding parking in his business' lot, but the stakeholders would work together to minimize potential special events overflow parking. Mr. Tamsky noted that the spaces on Clara Dr. were designed for those accessing the trails, not events at the farm.

Commissioners discussed wording for allowing special events (Stipulation #8), with there being concern about controlling the number and size of private events, as the application doesn't provide any figures for projected events of this nature. Commissioners were concerned that any excesses (noise, traffic) from private events would not be well-tolerated by the public, and capping the number of guests would be not be an effective measure for limiting them. The site is located in residential zones. Commissioners agreed that third party, private, for-profit events would require the applicants return to the PZC to present plans for such events.

Stipulations:

1. The applicant shall post an Erosion and Sedimentation Control Bond prior to the issuance of any Zoning Permits per the requirements of Section 8.6.3 of the Zoning Regulations. The bond amount shall be established by the Town Engineer after an estimate of the costs of installing and maintaining appropriate erosion and sedimentation control measures is provided by the applicant and approved by the Town Engineer.
2. Proposed lookout tower shall be subject to Commission review prior to construction.
3. Final plans shall be reviewed to the satisfaction of the Town Engineer and Old Mystic Fire Marshal.
4. Final plans must include written installation schedule, maintenance plan and warranties for landscaping per section 8.4.2.2.8.
5. Final plans shall indicate that the required parking for the farm house and butcher shop is 27 spaces.
6. Final plans shall indicate that the paved access between the parking lots is one way.
7. The Commission reserves the right to require the applicant's installation of the 3 proposed future parallel parking spaces along Clara Drive should they prove necessary to provide adequate parking for trail users. Any such decision by the Commission will be made after a public hearing enabling input from the applicant, neighboring property owners, the Police Commission, and Town staff.
8. No third party, private, for-profit events shall be allowed until the applicant returns to the Commission with clarification of their plans for such events.

Commission returned to Old Business to deliberate on application **PZ1503SUP Stonington Vineyards, Inc.** Seated for this application were Ben Tamsky, Bob Mercer, Curtis Lynch, Frances Hoffman, and John Prue.

Mr. Prue motioned to approve the waiver requests, seconded by Mr. Mercer. All in favor, 5-0.

Mr. Prue motioned to approve the special use permit with a stipulation, seconded by Mr. Lynch. All in favor.

Commissioners discussed how to control and monitor the noise that affects those neighbors negatively, and just monitoring the decibel level would not necessarily solve the issue as it would not be a zoning violation until the noise level exceeded 55db measured at the property line. Commissioners agreed that a return to the Commission for review of any zoning or police department complaints. Chairman Tamsky feels the issue lies with the difficulty of enforcement and subsequent options for corrective action should violations occur.

Stipulation:

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1. At the end of 12 months the applicant shall return to the Commission to review the success or failure of noise control measures.

Amended stipulations of approval from PZ9742SUP Cornelius Smith:

The following activities are accessory to the operation of Stonington Vineyards and are designed to promote the on-premises sale of wine:

- A. The retail sale of wine and related items.
- B. Tasting Room.
- C. Wine sales by glass or bottle as per state legislation.
- D. Art Gallery and receptions for artists.
- E. Meetings of clubs and civic groups for wine tastings and tours.
- F. Private parties including weddings to promote sale of wine.
- G. Wine and food events, e.g., cooking demonstrations.
- H. Wine festivals in which other vineyards participate with restaurant samples to match wine to food.
- I. Wine Events for local charitable non-profit groups.

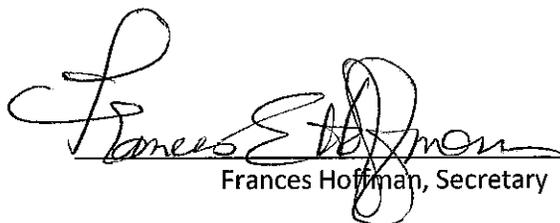
The aforesaid accessory uses are subject to the following limitations:

1. Any musical accompaniment shall not extend beyond 9:30 p.m. and shall not exceed to noise levels set forth in Section 2.13.2.4 of the Zoning Regulations.
2. All events shall be limited to not more than 200 guests.
3. No event shall extend beyond 10 p.m.

PZ1504SPA Mechanic Street Associates (David Snediker) – Site Plan Application for construction a 3,480 SF structure to accommodate the expansion of existing Assembly use, and associated parking, drive, utilities, and landscaping site improvements. Property located at 22 Mechanic St., Pawcatuck. Assessor's Map 4 Block 7 Lot 2. Zone DB-5.

Application tabled at Staff's recommendation.

Motion to adjourn by Mr. Prue, seconded by Mr. Mercer, all in favor, 5-0. The meeting adjourned at 10:08pm.



Frances Hoffman, Secretary