

**WOLCOTT PLANNING & ZONING
PUBLIC HEARING AND RESCHEDULED REGULAR MEETING
MONDAY, MARCH 22, 2010
TOWN COUNCIL CHAMBERS, 6:30 P.M.
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MINUTES

PUBLIC HEARING

Note: These are summary minutes. A tape recording of this meeting is on file in Wolcott Town Hall, Commission Secretary's Office.

Chairman Ray Mahoney called the Public Hearing to order at 6:34 p.m. with the Pledge of Allegiance and attendance was taken.

Roll Call Attendance

MEMBERS PRESENT: Pete Carmody, Cathe Sherman, Sam Zotto, Bill Olmstead, Ray Mahoney

MEMBERS ABSENT: None

ALTERNATES PRESENT: Chris Edquist, Vanessa Malena, Rich Delpier

ALTERNATES ABSENT: None

ALSO PRESENT: ZEO Dave Kalinowski, Attorney Brian Tynan

PERMIT APPLICATIONS

1. #10-432 John Jensen – Special Use Permit for a 40' x 60' garage at 671 Spindle Hill Rd.

Attorney Bruno, representing the applicant, said he wanted to add a few documents to the record. He said the Jensen's built this unit with a building permit that was issued to him on 11/15/02 and a copy was given to the Recording Secretary for the files. He said on 1/14/04 the Zoning Board of Appeals approved this unanimously and then on 2/14/04 they had some conditions about planting of trees, a berm, a copy of the decision and the letter explaining the vegetation that had to be planted was given to the Secretary for the files. He said the applicant did bring in a substantial amount of fill to put in a berm along the side and he put in 80 trees when he built it. He said on 12/16/04 he was granted a certificate of occupancy, which was also given to the Secretary for the files. He said based on all this he thinks there is sufficient information before the Commission to make a decision on this. He also said he understands that some Commission members made a site visit after the last meeting. Chairman Mahoney agreed and then asked if anyone has not been at the site to which there was no response and Chairman Mahoney stated everyone has been up there.

Pete Carmody read the letter received from Inland Wetlands Chairman dated 3/22/10 stating after review of the as-built plan dated 8/2/99 there was no direct or indirect impact to the regulated area. ZEO said to carry over from last public hearing the Attorney for the people that were opposed to this questioned whether we waived any regulations in Section 31. ZEO said according to Section 31 there are over 50 line items for a site plan and special use permit and every application that

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comes before the office is looked at differently, whether it is for a pool, garage, new house, etc. He said his job as ZEO is to review each plan and make sure the plan that is submitted there is enough material on it for the Commission to render a decision. He said in Section 31.11 it states the ZEO has a right to waive certain things with the approval of the Commission so there are many items that are not on the plan such as rock outcrop, large trees, traffic study, drainage study, proposed topo, etc. He said it is already an existing site and everyone has gone up there to verify that so he felt the proposed topo, etc. was not needed on plan but he felt there was enough information on the plan to make a decision on this application.

Attorney Harbanuk, representing Al and Ellen Santos came forward and said what Attorney Bruno indicates was correct. He said an application was submitted for a zoning permit and it was initially denied because the size was too large. He said he (the applicant) had to initial (permit) and change the sizes down and he would request that the Commission incorporate the prior zoning application into this record also. He said the applicant was aware he had to change the square footage as well as the size dimension that he had initially applied for in order to be in compliance with the barn that he was requesting. He said when applicant came in for a building permit he got one for the larger size and doubled it to what he originally wanted. He said he then had to apply for a variance which was unanimously granted, illegally. He said the court turned over the variance and he (applicant) is in contempt of the court's ruling to bring this back into compliance, which he has failed to do. Attorney Harbanuk said instead of coming into compliance we get here by a special use permit and maybe that was the route he should have taken initially. He said special use permits are for extraordinary circumstances and this barn/garage is not a matter of right. He said a matter of right garage is 650 square feet under the regulations and anything above that you have a couple different routes you can take, one which is a special use permit. He said in this instance he (the applicant) just built it and then he comes and tries to back door it by way of a special use permit.

He said under a special use permit the Commission can determine how this has to look for a residential neighborhood. He said it is a metal commercial building, it is inappropriate for a residential area and the neighbors have objected to it. He believes the fact that it is already up is the reason he believes the Commission is waiving conditions. He said there are no architectural plans, the neighbors did not get a chance to come up and say if you built it differently and made it look good in the neighborhood they probably wouldn't object. He said this is an ugly steel building and he objects on behalf of his clients to this application for all the reasons stated above. Mrs. Santos asked how this Commission could give a special use permit on a building that already had a permit and it was never brought into compliance.

At this time Pete Carmody read into record the letter from the Town Attorney dated 3/22/10 regarding this application, (see attached). Attorney Bruno said that Mr. Jensen initialed some changes on the zoning permit application and those initials are not dated. He said at no time did anyone say it was done before the permit was issued. He said that is a confused area. He said there are no sales of vehicles going on at this property. He also said there is no contempt going on and he had submitted a copy of the decision of the court and he said the variance is invalid, that's all. He said it is up to the Town to take the permit away or give a special permit.

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There were no more comments from the public or the commission and the public hearing was closed on this application.

**2. #10-433 Robert and Christine Wright – Special Use Permit for a
Daycare/Preschool
Facility at 1790 Meriden Rd.**

Robert Wright said he had another plan that showed the existing conditions that was requested by the ZEO. ZEO said he visited site (Ray Mahoney and Pete Carmody said they did also), and some things were not on the plan we had received. He said parking spots were not marked, stock piled materials, equipment and a construction tent were on the premises and there are wetlands located there. He suggested the applicant give us a site plan showing the existing conditions and the proposed conditions, sequence of construction and they have to go through Inland Wetlands.

Ray Mahoney said his concern was the safety of the children and what were they doing as far as the cars entering and exiting the premises. Robert Wright said they would be putting up one way signs and do not enter signs. Elliott Mayo, the property owner, said he will have an engineer design the parking lot plan. The plan is to enclose the lot to have a distinct in and out on both sides of the existing island. Mr. Mayo said the dirt piled up in back will be moved and the salt barn will be coming down. Mrs. Wright said she would have a maximum of 8 employees and maximum of 50 children. Mrs. Wright said she spoke to the State and Health Dept. and they would have to put up the proper barricades. Mr. Mayo said he would put up one of those operated arm controls if need be.

Mrs. Wright said the State requires 75 square feet of play area per child. Pete Carmody said his concern was the parking lot in back is sloped and a chain link fence around the play area would not hold back a (runaway) car or truck making deliveries in back. . ZEO suggested the engineer contact his office before completing plan to be sure all the information is on the plan.

At this time there were no more comments from the public or the Commission and the public hearing was continued to 4/7/10 at 6:30 p.m. in the Council Chambers.

REGULAR MEETING

At 7:06 p.m. Chairperson Ray Mahoney called the Regular Meeting to order and roll call attendance was taken. (Same as public hearing attendance listed above).

PUBLIC REQUESTS

There were no Public Requests at this time.

APPROVAL OF MINUTES

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Upon **MOTION** by Pete Carmody, seconded by Bill Olmstead, it was unanimously voted to **APPROVE** the minutes from the 3/3/10 Public Hearing and Regular Meeting.

Cathe Sherman and Sam Zotto abstained due to absence.

APPROVAL OF BILL

There were no bills at this time.

CORRESPONDENCES

Pete Carmody said we received a letter dated 3/15/10 from Attorney Tynan regarding the wholesaling operations at Musco Fuel. (Copy attached)

SUBCOMMITTEE REPORTS

There were no Subcommittee Reports at this time.

OLD BUSINESS

- 1. #10-430 Musco Propane – Site Plan Application (and Zoning Permit) for (4) 10,000 gallon above ground propane storage tanks at 585 Wolcott Rd.**

ZEO said he met with the Engineer on this and they are making modifications to the plan and it would be prudent to discuss this now as we need to schedule a public hearing on this. He said the Attorney for this application is here if any questions but we will be discussing this at the public hearing.

Upon **MOTION** by Pete Carmody, seconded by Cathe Sherman, it was unanimously voted to **SCHEDULE** a Public Hearing on #10-430 Musco Propane – Site Plan Application (and Zoning Permit) for (4) 10,000 gallon above ground propane storage tanks at 585 Wolcott Rd. for 4/7/10 at 6:30 p.m. in the Council Chambers.

- 2. #10-432 John Jensen – Special Use Permit for a 40' x 60' garage at 671 Spindle Hill Rd.**

Ray Mahoney asked Cathe Sherman and Sam Zotto if they had visited site (since the last meeting) and if they were satisfied to which they responded yes. Ray Mahoney said he believed we need to make a motion to accept this with the waiver of the items under Section 31.11. Pete Carmody stated he believed it was under Section 31.13. Attorney Tynan said that proper protocol under the regulations is that the ZEO should first make the recommendation that the items be waived as they are small items. ZEO said he stated this under the Public Hearing section of this meeting.

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A **MOTION** was offered by Pete Carmody, seconded by Bill Olmstead, to **ACCEPT** #10-432 (John Jensen – Special Use Permit for a 40’ x 60’ garage at 671 Spindle Hill Rd.) in regards that it has met all the requirements for a Special Use Permit in (Section) 31.13. A brief discussion followed as to whether this was to accept or approve and in order to clarify this Pete Carmody **WITHDREW** his motion to accept application #10-432 and Bill Olmstead withdrew his second to the motion.

Upon **MOTION**, by Pete Carmody, seconded by Bill Olmstead, it was unanimously voted to **WAIVE** the requirements under (Section) 31.11 pertaining to #10-432 Special Use Permit (John Jensen).

A **MOTION** was offered by Pete Carmody, seconded by Bill Olmstead, to **APPROVE** #10-432 Special Use Permit (John Jensen).

There was a brief discussion as to whether there should be any stipulations put on this as far as selling cars and no commercial use (allowed) and Chairman Mahoney said our regulations already state that and if there is any illegal activity it should be reported for us to address.

Upon **MOTION** by Pete Carmody, seconded by Sam Zotto, it was unanimously voted to **AMEND** the above motion and **ADD** to the approval of #10-432 Special Use Permit (John Jensen) that the application is approved in compliance with the standards of Section 31.13.

Chairman Mahoney stated the original motion was to **APPROVE** #10-432 John Jensen – Special Use Permit for a 40’ x 60’ garage at 671 Spindle Hill Rd. A roll call vote was taken and the outcome was as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Pete Carmody	X		
Cathe Sherman	X		
Sam Zotto	X		
Bill Olmstead	X		
Ray Mahoney	X		

Motion Carries – 5 Yes in favor of application #10-432.

3. #10-433 Robert and Christine Wright – Special Use Permit for a Daycare/Preschool Facility at 1790 Meriden Rd.

Chairman Mahoney said the public hearing on this has been continued to the 4/7/10 meeting at 6:30 p.m. (in the Council Chambers).

NEW BUSINESS

At this time it was requested to add to new business #10-435(A) application for the new Youth Center.

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Upon **MOTION** by Cathe Sherman, seconded by Pete Carmody, it was unanimously voted to **ADD** to the agenda, under New Business, #10-435(A) Special Use Permit for the Wolcott Youth Center.

1. #10-435(A) – Al Podzunas – Special Use Permit for the Wolcott Youth Center at 48 Todd Rd.

Upon **MOTION** by Cathe Sherman, seconded by Sam Zotto, it was unanimously voted to **ACCEPT FOR REVIEW** and **SCHEDULED** a Public Hearing for #10-435(A) Al Podzunas – Special Use Permit for the Wolcott Youth Center at 48 Todd Rd. for 4/7/10 at 6:30 p.m. in the Council Chambers.

ZONING ENFORCEMENT OFFICER’S REPORT

ZEO said there was a new application for a woodworking shop on Nutmeg Valley Rd. He said there is a metal working shop there now and this will be in another section of the same building. He asked the Commission if they had any concerns with a Zoning Permit being issued for this and there were none. Vanessa Malena asked if there has been a C/O issued for (701 Wolcott Rd.) and ZEO stated that they have taken care of all the paperwork and have been given the approvals required to open.

ZEO said at the last meeting there was discussion regarding wholesale business at Musco Fuel. He said there were correspondences in your packet from the Town Attorney, Tony Panico and a letter for review only from myself. He said this is before the Commission now and asked if they had any questions or any direction they wanted to give him on this and this is a decision from the Commission to let him know how they wanted him to proceed with this. ZEO said that a stop work order or a cease and desist order can be issued. There was a discussion as to what the cease and desist would be for and it was stated for the wholesale business only. Sam Zotto said when this first came in (2006) it was to service his own customers only and that was how it was approved. Vanessa Malena asked if there was any way for Musco to request a change or is it no because of the regulations. ZEO said right (because of regulations) and Vanessa Malena then asked how he got the first tank permitted if the regulation says there is nothing permitted over 10,000 gallons (tanks) and it also says there is no wholesale. ZEO said correct and he never received a permit for wholesale. ZEO said if they have anything to add and the Commission is comfortable with proceeding with this (cease and desist) then he will. It was asked if a motion was required and ZEO said no. Chairman Mahoney said he thinks this should be done and Sam Zotto agreed. ZEO said this has nothing to do with the application before us now for Musco Propane, this has to do with what is being conducted there now.

ZEO said the hockey rink issue is going before Z.B.A. as the applicant has appealed his (ZEO) decision. He recommended for the Commission members to try to attend this Z.B.A. meeting.

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ZEO said that he has Chesprocott involved with a few unsightly conditions in town where complaints have been received. He said we also need to look into an ordinance for blight that will give us a little more power for complaints about unsightly conditions. Ray Mahoney said there is a sandwich sign at the end of Brookdale for flooring store and there are signs posted around town for the new gym business on Wolcott Rd. He also said he believes someone is living in the trailer on Central Ave. that he questioned at an earlier meeting.

EXECUTIVE SESSION

There was no Executive Session at this time.

ADJOURNMENT

Upon **MOTION** by Cathe Sherman, seconded by Pete Carmody, it was unanimously voted to **ADJOURN** the Regular Meeting at 7:50 p.m.

APPROVED:

Ray Mahoney, Chairperson
Planning & Zoning Commission

Edna Henderson, Recording Secretary
Planning & Zoning Commission

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