



Town of
North Stonington, CT

PLANNING & ZONING COMMISSION

REGULAR MEETING

THURSDAY, FEBRUARY 13, 2020 - 7:00

**NEW TOWN HALL
CONFERENCE ROOM
40 MAIN STREET
NORTH STONINGTON, CT 06359**

MINUTES APPROVED ~ MARCH 5, 2020

1. CALL MEETING TO ORDER: Chairman Steinbrecher called the Regular Meeting of the North Stonington Planning & Zoning Commission to order on Thursday, February 13, 2020 at 7:00p.m. at the New Town Hall, Conference Room.

COMMISSIONERS PRESENT: Louis Steinbrecher, Chairman, Ed Learned, Mark Leonard & Pat Lewis

COMMISSIONERS ABSENT: Wayne Wilkinson and Alternate Members Robert Kappes & Jennifer Pensa

STAFF PRESENT: Planning, Development & Zoning Official Juliet Hodge, Administrative Assistant Cheryl Konsavitch and Town Attorney, Robert Avena

8. PLANNING ISSUES & DISCUSSION:

A. Possible Proposed Event Barn Conditions Modification for Approved **SPP #19-066 (*Special Permit/Site-Plan*)** Application of Michael & Wanda Breidinger, 125 Fowler Road, North Stonington, CT 06359 for an approved Event Barn as accessory to an existing agricultural use on property located at 125 Fowler Road in an R-80 Zone. Tax Map #71, Lot #8047

Chairman Steinbrecher read the application into the record.

Seated: L. Steinbrecher, E. Learned, M. Leonard, P. Lewis

J. Hodge asked if all Commission members present received her memo and read it pertaining to the change of conditions for the approved Special Permit for the following conditions only:

1. The following reviews and approvals are required prior to the filing of the mylars.
 - a. BOS must review plans and vote whether to accept the portion of land to be deeded to the Town to widen the narrow portion of Fowler Rd. as shown on the Plan.
 - b. BOS must submit 8-24 Review request to PZC to consider the land transfer to the Town as described in a. above.
 - c. Town Meeting must be held and a vote taken to accept the land as shown on approved plans.
 - d. Per the Scenic Road Ordinance, a Public Hearing must be scheduled and held by the PZC to consider alterations to the stone wall and widening of the Scenic Road as shown on approved plans.

Atty. Avena referred the Commission to their regulation under Chapter 13-9, Permits for Commission Approval, and stated that what the Commission approved was a Special Permit with a Site Plan. The application was voted on and approved. A notice of decision was published in a newspaper, the appeal period went by and no appeals were taken. Atty. Avena stated that there were conditions associated with the Special Permit that are at issue this

evening. Atty. Avena stated that if the amendments to the Special Permit were considered minor in nature and resulted in no significant change in the use or its intensity and that did not materially alter the Special Permit, they may be authorized with Commission approval only without a public hearing.

Atty. Avena stated the Commission needed to decide if they want to modify the conditions in a public hearing or at a regular meeting. Atty. Avena stated the only conditions the Commission would be considering to modify would be condition 1 (a-d). Atty. Avena stated that if the Commission decided to go to a Public Hearing, these conditions (1 a-d) would be the only items the Commission would be discussing. They would not be discussing the event barn itself all over again.

Atty. Avena stated again for the record that according to the regulations, a Special Permit may be amended or modified in like manner as provided above for the granting of a Special Permit, except that amendments the Commission find to be of a minor nature, that result in no significant change in the use or its intensity, and that do not materially alter the Special Permit, may be authorized with Commission approval only, without another public hearing.

Atty. Avena stated that the P&Z Commission is not the Board of Selectmen or the road crew for North Stonington, and they are very limited in their powers as a Commission. Atty. Avena stated there are only certain elements of the road the Commission should be concerned about. Does the applicant have a method to get the public back and forth from the event barn, can the traffic pass safely, and can firetrucks access the property? Would anyone claim suddenly that the Breidingers couldn't use the access way? Atty. Avena stated the Commission has regulations in place dictating how wide the access needs to be, and if the applicant does not build the access way to those standards, a zoning compliance permit will not be issued. The applicant stated in their presentation during the public hearing that they can improve the right of way and make it wide enough and safe enough for the public.

Atty. Avena explained the various things a court would consider when determining the status of a road. These include things like; does the bus pick up children in front of the house or is mail delivered along the roadway in question? Can someone else claim ownership? He stated that the courts could determine that a road was abandoned based on non-use over time or lack of town maintenance.

Atty. Avena briefly discussed issues with the 1995 Leach subdivision map and how the bump out occurred.

Commission asked questions of Atty. Avena pertaining to the road status and the conditions they are modifying.

Atty. Avena stated that in his opinion, the proposed changes to the conditions on the notice of decision are minor, in that the Commission is not changing the event barn use itself or intensity of the use approved by Special Permit. He believes certain conditions being modified were not legally necessary because they would be an over reach of the Commission's authority. The PZC cannot tell other boards what to do. The condition relating to the Scenic Road Ordinance is irrelevant.

MOTION by M. Leonard, SECOND by E. Learned to modify the conditions of the Special Permit #19-066 without a public hearing due to the changes in conditions being minor in nature and resulting in no significant change in the use or intensity of the project, for discussion purposes. MOTION CARRIED UNANIMOUSLY

The Commission discussed the Right of Way being brought up to town standards and the scenic road which was determined to end at the cul-de-sac.

Chairman Steinbrecher asked if there were any questions or comments from the public pertaining to this application. The following people spoke:

Dan Lowney stated that he contacted two neighbors who are very familiar with the road, and who use it to access the state forest, and according to them, it appears the Town has been maintaining and plowing the road for many years and even put up a 10-mile speed limit sign.

J. Hodge stated she has a letter from the Highway Foreman stating they have never accepted nor maintained in any way that portion of the road. She also stated that she had asked former 1st Selectman Nicholas Mullane if the Town had ever maintained that portion of Fowler Road and he said no, that the Selectman actually voted to abandon it.

Mike Breidinger stated he has plowed the road since they have lived there and that it was they who posted the 10-mile speed limit sign, not the town.

MOTION by M. Leonard, SECOND by E. Learned to modify the conditions of the Special Permit #19-066 without a public hearing due to the changes in conditions being minor in nature and resulting in no significant change in the use or intensity of the project. MOTION CARRIED UNANIMOUSLY

MOTION by M. Leonard, SECOND by E. Learned to amend the conditions 1 (a-d) of the Special Permit #19-066 as discussed, for discussion purposes. MOTION CARRIED UNANIMOUSLY

The following modifications were discussed:

1. The following reviews and approvals are required prior to the filing of the mylars.
 - a. BOS must review plans and vote whether to accept the portion of land to be deeded to the Town to widen the narrow portion of Fowler Rd. as shown on the Plan.
 - b. BOS must submit 8-24 Review request to PZC to consider the land transfer to the Town as described in a) above.
 - c. Town Meeting must be held and a vote taken to accept the land as shown on approved plans.
 - d. Per the Scenic Road Ordinance, a Public Hearing must be scheduled and held by the PZC to consider alterations to the stone wall and widening of the Scenic Road as shown on approved plans.

The Commission stated that items a and b are under the Selectmen's jurisdiction and that the PZC can't order another board to do something. They further stated that the applicant is still required to widen the access way to the event barn to 24 feet as shown on the plan per the regulations. The applicant does not have to do a land swap with the Town. The swap could be between Breidinger and Burbine, but they could still state that the 25' strip be deeded to the Town. What the Town chose to do from there was up to them.

MOTION by M. Leonard, SECOND by E. Learned to amend the conditions 1 (a-d) of the Special Permit #19-066 of the Proposed Event Barn for Approved SPP #19-066 (*Special Permit/Site-Plan*) Application of Michael & Wanda Breidinger, 125 Fowler Road, North Stonington, CT 06359 for an approved Event Barn as accessory to an existing agricultural use on property located at 125 Fowler Road in an R-80 Zone. Tax Map #71, Lot #8047. MOTION CARRIED UNANIMOUSLY

B. Commission Training

Atty. Avena discussed training opportunities and urged Commission members to attend.

Atty. Avena also discussed the decommissioning plan for the Solar project at 89 Providence-New London Turnpike with the Commission. Atty. Avena stated the plan needs future review as it needs to be fair and appropriate to the Town if they need to go in and decommission it.

9. SENIOR PLANNER & ZONING OFFICIAL'S REPORT/ISSUES:

ZEO Activity Report/January

J. Hodge went over her activity report and stated she would like to schedule a Public Hearing to revoke Mr. Abbott's special permit pertaining to his Home Occupation Special Permit. Mr. Abbotts has repeatedly been in violation of the condition which states the oil trucks cannot be parked on the property, except to deliver oil to the house.

J. Hodge updated the Commission on Richard White's Enforcement Issue and gave an update on the restoration plan, which needs to be completed by 2020. She will send a reminder letter to Mr. White.

10. NEW APPLICATIONS: None

11. OLD BUSINESS: None

12. NEW BUSINESS: None

13. REVIEW MINUTES:

Review minutes of Regular Meeting of 02/06/20

The minutes of 02/06/20 were accepted as submitted.

14. ADJOURNMENT:

MOTION by E. Learned, SECOND by M. Learned to adjourn the meeting at 9:05 p.m. MOTION CARRIED UNANIMOUSLY.

Respectfully Submitted,

Cheryl Konsavitch

Cheryl Konsavitch, Administrative Assistant
Land Use Office