

MINUTES
SPECIAL MEETING
ZONING BOARD OF APPEALS
MAY 4, 2011 - 7:00 P.M.
TOWN HALL ANNEX - COMMUNITY ROOM 1

Present: Grady, Manning, Mencer, Russotto, Stebbins
Excused: Kravits
Staff: Cullen, Quinn
Also Present: Michael Carey, Town Attorney

I. ROLL CALL

Chairman Stebbins called the meeting to order at 7:00 p.m.

Motion to enter executive session to discuss Whittle vs. ZBA, and inviting Carey, Quinn and Cullen was made by Russotto, seconded by Grady, so voted unanimously.

II. EXECUTIVE SESSION -7:05 p.m.

Executive Session ended at 8:12 p.m. and the Board entered into regular session.

III. PUBLIC COMMUNICATIONS

Albert Turner, 314 Yetter Road, said the Town needs to enforce regulations and protect his land. He said answers are needed as to the long term plans for the restoration of the site, and the property is not being restored with quality fill.

Attorney Carey informed Mr. Turner that there will be an opportunity to speak next Thursday at court in New London.

Mr. Turner stated the Whittles have blatantly disregarded his requests. He would like to see their site plan, know who is enforcing, their hours of operation, who may operate when they are not on site. Mr. Turner also spoke about the lack of regulation of the truck traffic and noise, and dust. The animosity has been shown in violence actions and there are police reports that reflect these actions.

Miriam White, 314 Yetter Road stated that it appears that there is a gun club now going on in the sand pit. She asked if regulations permit this. Attorney Carey told Miss White that the guns are not a zoning issue. Kevin Quinn, informed her that the Town does not have a noise ordinance. She stated that this was unfortunate.

Tammy Waitkus, 388 Yetter Road, said she was a bit confused as to how this is going and she had pictures and information to share. Attorney Carey advised Mrs. Waitkus to read her letter and informed her that she could come to court next Thursday. She read her letter to the Board.

IV. ITEMS OF BUSINESS

- 1) Discussion and action on possible settlement of pending litigation (Whittle vs. ZBA)

Mr. Russotto made the motion with amendments read by Attorney Carey. Grady seconded the motion. Attorney Carey asked Attorney Londregan if he objected to

adding the line (page 5 paragraph 3, sentence that says “if the Whittles have not obtained...” makes provision for contingencies of appeals by third parties.

MOTION: To approve the “Settlement Agreement” as modified, attached hereto because we find that:

1. The terms of the Settlement Agreement will eliminate the uncertainty and expense of litigation and result in as clearly defined an outcome as possible under the circumstances;
2. Were we not to settle the appeal on these or similar terms and were we to lose the appeal, all of the uses and activities at the property that were the subject of our original decision in this matter arguably could continue without being subject to the kinds of limits and conditions that the Settlement Agreement will impose on them;
3. The limits and conditions on those uses will be beneficial to the Town and to those most nearly affected by the activities at the property; and
4. Pursuant to the Settlement Agreement, all of the contested uses would be subject to further review and regulation by the Zoning Commission pursuant to an application for a special use permit.

Stebbins asked the Board if further discussion was needed.

Russotto recommended approval because it is fair to both the neighbors and the Whittles. Grady said she thought it made sense to move this forward and move on with the permitting process and aid the neighbors with the issues. She will recommend approval. Manning said that he is in favor of approval. Mencer stated that he supported moving this forward to control the activity. Stebbins felt this addressed the neighbors' complaints and regulates what may happen on the property; he hoped that the Court would agree with the agreement because the restrictions would help the neighbors.

Motion passed unanimously.

V. ADJOURNMENT

Motion to adjourn at 8:50 p.m. was made by Russotto, seconded by Grady, so voted unanimously.

Zoning Board of Appeals
Prepared by Susan Cullen, Planner II