

**Town of Chaplin
Planning and Zoning Commission
Regular Meeting Minutes
January 10, 2019
Chaplin Town Hall**

MEMBERS PRESENT: Doug Dubitsky (Chair), Peter Fiasconaro (Vice Chair), Alan Burdick, Dave Garceau, Eric Beer, Randy Godaire, Helen Weingart

ALSO PRESENT: Ken Fortier (unseated alternate), Jay Gigliotti, Zoning Enforcement Officer (ZEO), Elizabeth Marsden, Recording Clerk

CITIZENS PRESENT: Robert and Ellen Mott, Juan and Dorcas Velasquez

The meeting was called to order at 7:03 p.m.

APPROVAL OF MINUTES of November 29, 2018 Special Meeting: R. Godaire moved to table approval of minutes until next month's meeting, P. Fiasconaro seconded the motion, all in favor, motion carried.

CITIZENS HAVING NEW BUSINESS: None

OLD BUSINESS:

- A. Discussion with property owner - 3 and 11 Lynch Road (Open zoning violation case): Property owner Robert Mott distributed a letter he prepared (included in the record) regarding his case and accrual of fines. The letter gives explanations for delays in the required removal of the pile of fill on the site, and claims that what is left is 60 cubic yards. He stated to the Commission that he has consistently worked on removing the pile and that in his 36 years in Chaplin, he has always tried to proceed in a legal manner with pulling permits etc. His letter stated there are many other violations in town along Route 6 that have not received zoning enforcement action. He requested that the fines which began accruing in July 2018 to be waived.

Mr. Mott was asked which other violations he was referring to along Route 6, and Mr. Mott provided pictures of one site at Cross Road and Route 6. Mr. Mott said a construction company has been using this site to dump and bury various materials for 12 years. He provided several other examples. Mr. Dubitsky asked Mr. Mott if his position was that since there are other violations, his should not be

fined. A lengthy discussion followed, and both Mr. and Mrs. Mott contended that they have been singled out for zoning enforcement, while the Commission members overwhelmingly contended that the ZEO and the Commission have exercised due diligence in enforcement actions with many other cases brought to its attention. They stated that the majority of offenders work with the Commission to correct their violations and thus avoid citations and fines.

Mr. Dubitsky explained that the existence of other violations not yet being addressed by the ZEO or PZC does not constitute a legitimate or legal basis for Mr. Mott's violations and fines to be excused and/or waived.

The members questioned Mr. Mott about why he has not refuted the citation and the fines until now, even though the fines began accruing in July. Mr. Mott appeared before the PZC regarding his Marcy Road site plan after fines began accruing, and never mentioned this case. Ellen Mott asked whether all zoning enforcement cases were initiated by letters of complaint and Mr. Dubitsky stated that is commonly the case; the part-time zoning enforcement officer does not drive around looking for violations. Mr. Dubitsky stressed that Mr. Mott had the gravel screener on site for over a year, possibly two years. Ellen Mott insisted that it isn't fair that only violations that are "visible" are the only ones receiving citations and fines. She stated that she believes the reduction in cubic yards of fill constitutes a remediation of the violation. She believes that Mr. Mott acted in good faith to remedy the problem and the fines should be waived. The members mentioned that the violation was not remediated within the deadline and that is why citations and fines were assessed. The PZC members emphasized that the violation has been in existence since 2012. The PZC members concluded that Mr. Mott should go through the appeal process which requires the property owner to send a written request to the town, and the town attorney would advise the PZC about the exact process. A hearing officer will hear the case. Mr. Dubitsky said the PZC does not have the authority to waive existing fines. The ordinance does not address whether or not accrual of fines is suspended once the appeal is made.

After additional discussion, Mr. Dubitsky invited a motion to suspend further accrual of fines as of the day the town receives a written request for an appeal to the hearing officer, and for the suspension of additional fines to remain in effect until a resolution of the appeal occurs. E. Beer so moved, R. Godaire seconded the motion, all in favor, motion carried.

B. Discussion with property owner - 153 Chewink Road. Dorcas Velasquez said they have been working on the site, her husband Juan has medical problems and is at risk of frostbite. She asked if the fines could be suspended for the winter due to the risk of frostbite. She stated that they are not burying garbage under leaves, as her neighbor had accused, but there was an old dumping ground with bottles and metal and they have removed those. She stated that her neighbor is a painter and has many paint cans on his property. The ZEO said the amount of the fine currently is \$2,730 for 91 days. Mrs. Velasquez said that the most recent letter she received from the town stated that the fine at that point was \$1,890.00, and she was prepared to pay that amount right now. The ZEO stated that he would be able to accept the payment and bring it to the town treasurer.

The ZEO said that the town attorney has confirmed that the PZC has the authority to suspend the fines, but they cannot reduce the dollar amount. If there is no action by the PZC, the fines will continue. P. Fiasconaro thought the owners should start an appeal if they wanted the fines eliminated, however the owners are only asking for the fines to be suspended; they have already accepted that they are in violation and missed several deadlines after being given extensions. E. Beer moved to suspend the fines beginning January 11, 2019 until April 1, 2019, when they would resume at the current rate of \$30/day. No one seconded this motion.

C. Discussion and Possible Action on Revisions to additional sections of the Chaplin Zoning and Subdivision Regulations as listed on Agenda

A. Burdick moved to table C of Old Business, E. Beer seconded the motion, all in favor, motion carried.

The Commission briefly discussed the formerly amended sections going to a public hearing after additional revisions.

NEW BUSINESS:

A. Election of Officers -- Chair, Vice Chair, Secretary

NOMINATIONS:

Eric Beer nominated Doug Dubitsky for Chair, Peter Fiasconaro seconded the motion. There were no other nominations. R. Godaire moved to close nominations, A. Burdick seconded the motion, all in favor, motion carried.

All voted unanimously to elect Doug Dubitsky for Chair.

Dave Garceau nominated Peter Fiasconaro for Vice Chair, Eric Beer seconded the motion. There were no other nominations. E. Beer moved to close nominations, Dave Garceau seconded the motion, all in favor, motion carried.

All members voted unanimously to elect Peter Fiasconaro for Vice Chair.

Dave Garceau nominated Eric Beer for Secretary, Peter Fiasconaro seconded the motion. There were no other nominations. E. Beer moved to close nominations, D. Garceau seconded the motion, all in favor, motion carried.

All members voted unanimously to elect Eric Beer for Secretary.

- B. Discussion of Bylaws -- The Commission discussed the PZC bylaws, which have not been revised since 1995. A copy of the bylaws was distributed to the members for review and future discussion.

CORRESPONDENCE: The PZC received a notice of a one-day training session on Connecticut land use law by the CT Bar Association to be held at Wesleyan University.

REPORT OF THE ZONING OFFICER: The ZEO presented his report, which is available at Town Hall. Items requiring action from the Commission were as follows:
NONE

ITEMS PRO RE NATA: The Commission discussed Mr. Mott's list of alleged zoning violations. They also discussed the concept of one or more "free dump days" in Chaplin.

ADJOURNMENT: Motion to adjourn by E. Beer, D. Garceau seconded the motion, all in favor, motion carried.

The meeting was adjourned at 9:16 pm

Respectfully submitted
Elizabeth Marsden, Recording Clerk