

Chaplin Planning and Zoning Commission  
Regular Meeting Minutes  
August 11, 2016  
Chaplin Town Hall  
495 Phoenixville Road, Chaplin, CT

**Call To Order 8/11/16 Regular Meeting:**

Chairman Doug Dubitsky called the meeting to order at 7:09 PM

**Roll Call, Seat Alternates**

Members present were Chairman Doug Dubitsky, Eric Beer, Helen Weingart and Alan Burdick. Alternate Member present was Ken Fortier. Also present was Zoning Enforcement Officer Jay Gigliotti

Members Absent were Vice-Chairman Peter Fiasconaro, Randy Godaire and Dave Garceau. Alternate Members Absent were Bill Ireland and Brandon Cameron.

**Seat Alternates:**

Chairman Dubitsky seated Ken Fortier for Vice-Chairman Peter Fiasconaro

**Approval of July 14, 2016 Regular Meeting Minutes:**

**Helen Weingart motioned to approve the July 14, 2016 Regular Meeting Minutes as written, seconded by Alan Burdick. Eric Beer abstained. All other members voted in Favor. Motion Carried.**

Chairman Dubitsky asked the commission members for a motion to relocate Old Business to after New Business on the 8/11/16 Meeting Agenda.

**So moved by Eric Beer, seconded by Alan Burdick. All Members voted in Favor. Motion Carried**

**Citizens Having New Business: None**

**New Business:**

- A. **LG16-062**-Timber Harvest Permit Application- -Joseph Theroux-Applicant- Joshua's Trust-Property Owner- Tower Hill Road- Assessor's Map 73-8-1- Application for Timber Harvest per section 8.11 of Chaplin Zoning Regulation- Proposed Timber Harvest is component of Existing Forest Management Plan- Property is 37 acres, proposed harvest area is 17 acres- Located in the R.A.R. Zoning District

Prior to the applicant's presentation of the proposed timber harvest, Chairman Doug Dubitsky explained an issue exists with section 8.11 of the zoning regulations. This section requires a proposed timber harvest/ logging operation to obtain a zoning permit from the commission in order to conduct the harvest. As the PZC had discussed during the 7/14/16 meeting, the CT DEEP Forestry Division contacted Chairman Dubitsky and explained the Chaplin Planning & Zoning Commission does not have the authority to regulate logging operations/ timber harvests. The Connecticut General Statutes (CGS) defines the harvesting of trees as an "As-of-Right" use and thus cannot be regulated by a planning & zoning commission. However, section 8.11 is currently included in the adopted zoning regulations and the commission has continuously administered sec. 8.11 for a number of years.

Summarizing his conversation with CT DEEP, Chairman Doug Dubitsky stated he explained the PZC is aware sec. 8.11 is not compliant with the CGS and is slated for revision/ removal within the next few months. Chairman Dubitsky also had to explain that even though section 8.11 is not consistent with the CGS, it is still a component of the adopted zoning regulations and the commission has to administer its own regulations.

The applicant for **LG16-062**, Mr. Joseph Theroux, was in attendance to present the proposed timber harvest on Tower Hill Road. Mr. Theroux is a Connecticut Licensed Forester and is also the Town of Chaplin Inland Wetlands Agent. Mr. Theroux was retained by the property owner, Joshua's Trust, to develop a forest management plan for the 37 acre property and also to oversee the proposed harvest operation.

Before he presented the proposed harvest to the commission, the applicant, Mr. Joe Theroux, a CT licensed Forester, briefly discussed the situation between sec. 8.11 of the Chaplin zoning regulations and the CGS. He verified sec. 8.11 was not in compliance with the CGS, however, Chaplin is just one of the many towns in CT where the same situation is present. Mr. Theroux went on to commend the PZC for identifying the problem and working to fix it.

Mr. Theroux provided handouts to each of the commission members and briefly discussed the licensing requirements for a CT Licensed forester. The handout included a copy of the zoning permit application, the "Notification of Timber Harvest" form, an aerial photo and a map of the harvest area, landing and skid trail.

Mr. Theroux explained the proposed harvest shall only be conducted on 17 of the 37 total acres. The harvest is a component of the Forest Management Plan which he developed for the property. The harvest of the 17 acres is estimated to yield approx. 11,000 board feet of timber, translating into about three (3) truckloads of logs leaving the property.

Access to the harvest area will be derived through the abutting property owned by Mr. Warren Church. Mr. Church has agreed to allow Mr. Theroux to utilize an existing anti-tracking pad remaining in place from a previous timber harvest, approx. six (6) years ago. The tracking pad enters Mr. Church's property off of Tower Hill Road and it has not been used since Mr. Church's timber harvest was completed. The tracking pad is still in good condition and will be effective for use in the proposed harvest.

Mr. Theroux concluded by explaining the harvest needs to be conducted during dry conditions and he is planning on commencing the harvest operation within the next month. Once the work on the harvest is begun, the entire harvest should be completed within a week.

PZC Staff, Jay Gigliotti, added he has conducted an inspection of the existing tracking pad and verified it is still in good working condition. Mr. Gigliotti stated he has worked with Mr. Theroux on a number of previous harvest operations and has found Mr. Theroux to be very thorough and extremely reliable. Chairman Dubitsky concurred with Mr. Gigliotti's assessment of Mr. Theroux.

**Eric Beer motioned to approve Timber Harvest Application #LG16-062. Seconded by Alan Burdick. All members voted in favor. Motion Carried.**

Chairman Doug Dubitsky asked for a motion to refund the timber harvest application fee, less the CT DEEP Land Use Fee. The basis for the refund is due to the illegal regulation of a timber harvest operation. PZC Staff shall work with the Finance Director to ensure the correct refund.

**Motion made by Alan Burdick to refund as much of the timber harvest application fee as possible. Seconded by Ken Fortier. All members voted in favor. Motion Carried.**

## Old Business

### **A. Discussion and Possible Action on Revisions to the Zoning Regulations**

Chairman Doug Dubitsky compiled a working list of nineteen (19) items within the current zoning regulations, as discussed at the July meeting, which are consistently causing issues for residents and applicants trying to comply. The 19 item list was emailed earlier in the day on 8/11/16 and staff provided all PZC members in attendance with a copy of the list. The commission proceeded to discuss

each item on the list, identifying what the issues were with each and what level of discussion each would require to complete a revision. The commission agreed that all revisions should be provided to the Town Attorney, allowing him to review & comment on each.

In addition, Chairman Dubitsky explained he expects a significant amount of opposition to some of the items included on the list. The discussions of these revisions should be conducted at time when the PZC has a full complement of members as well as the Town Attorney in attendance at the meeting.

#	REVISION ITEM	SECTION #	PAGE #	SUMMARY OF DISCUSSION
1.	Signage Regulations	8.4	33	Recent U.S. Supreme Court case regarding signage & zoning, the result of the case was that zoning cannot regulate the content of sign, only the size & location. Nearly all CT towns, including Chaplin will now have revise signage regulations. Shall wait to commence discussions until we can see what some of the other towns do to address the court case.
2.	Lighting Regulations	8.13	55	Technology has significantly changed since the adoption of the current reg. PZC recently had a difficult issue with billboard at Route 6 & 198 Intersection
3.	Open Space Subdivision	8.8	43	Has only been used a few times since its adoption. Resulting projects have not been effective & most likely would have turned out to be a better product if the O.S. Subdiv Reg was not in regs. Discussion of complete removal vs. any type of revision.
4.	M.A.R.O.D. Regulations	5.11	25	Since Grange sold in 2013, this regulation has been inaccurate. Appears revision shall be quick as only need to change one (1) component.
5.	Multi-Family District Regulations	5.5	18	The adopted zoning map does not include a Multi-Family District, however, there is an entire section in current regs dedicated to Multi-Family District. To address, PZC must either add a Multi-family District to the zoning map or remove the multi-Family district section from regs.
6.	Any use not Specified is Prohibited	5.1.A.	10	Identified as an important revision. Town Attorney has previously recommended the PZC remove from regulations. By doing so, it would build in some flexibility into the regulations and potentially avoid legal issues. Commission should ensure to discuss with BOS and have detailed discussion with full commission & Town Attorney, with consul in attendance, regarding the ramifications of removal. There will most likely be opposition to the removal. Strong argument on both sides
7.	Moratorium Regulations	1.4	1	Was in effect from 6/1/11 through 11/30/11, prevented any Map or Reg revisions, and, any type of permit application for new developments within Route 6 Business Corridor. Purpose was to provide PZC with necessary time to implement goals listed in 2010 POCD. Appears should just be removed from regs.
8.	Accessory Apartments	5.2.A.10	12	PZC had 5-6 meetings of discussion regarding the revised regulation. The discussions concluded by PZC voting & approving a completed revision of this regulations and just has to go through the P.H. process of PZC Regulation Amendments.
9.	Agricultural Regulations	5.2.A.3	12	Spans across nearly entire set of regulations. In addition, there appears to be a large variety of opinions best way to revise. Will be a detailed discussion over several meetings, Discussion to occur with full complement of PZC members and presence of town consul.
10.	Dog Kennel/Boarding Facilities	5.2.B.12	14	Consensus of PZC this revision should be a priority. There is already a current enforcement in progress due to the owners inability to comply with current regulation. The existing language of the regulation is so specific, it is nearly impossible to comply with. Should someone be interested in opening a Dog Kennel/ Boarding facility, they would most likely, be unable to meet the strict requirement of the existing regulation. Due to existing enforcement, PZC Staff is currently working with property owner to draft revision. Shall have a draft completed for initial PZC review at Sept. Meeting.
11.	Logging Operations	8.11	51	Current reg is not compliant with state law. PZC has been notified by CT DEEP Forestry Division of the illegal regulation. Zoning commissions cannot regulated the harvesting of trees as the CGS define a timber harvest/ logging operation as an "As-of-Right" use. Revision should be priority, PZC has had several timber harvests over past 6 months
12.	Earth Excavation Regulations	8.6	36	Will be applicable to a number of different sections & uses. Current reg is not environmentally friendly and requires a strict permit process. The quantity of material excavated without a permit is quite low compared to many other towns.
13.	Home Occupation Regulations	2.2	3	PZC has previously had discussions on revision in response to a property owner, PZC staff & Chairman shall attempt to locate any drafts that were completed during the previous discussion. Home business becoming more popular & current language will most likely require a fair amount of Discussions on revisions over course of multiple meetings
14.	Non-Conforming use regulations	3.1	9	There has been a significant number of court cases regarding non-conforming uses since the current section was adopted. The decisions on these cases effects how non-conforming uses are regulated. Appears current regulation is not entirely consistent with current law.
15.	Driveway construction	5.1.C.	10	There are many new technologies of pavement for use in driveway construction, pervious pavements and other low-impact materials and design. Current Regs are

	regulations			very specific in use of impermeable bituminous asphalt and the current design specs do not allow for the implementation of any type of low-impact development. PZC agreed to promote the increase water quality wherever possible. Regs to be revised accordingly.
16.	Accessory Structure Regulations	7.1	29	To be Determined
17.	Site Plan Review Standards	8.7	37	Current section requires a series of administrative and technical revisions in order to keep the zoning regs current, legal and in favor of the town. Not expected to require much discussion
18.	Alcoholic Beverage Regulations	8.9	47	This item is included because a resident approached the PZC a number of months ago and indicated he wanted to open a distillery on his property. Current alcoholic beverage regulations prohibited him from moving forward. Good models in many other towns. Small distillery like such have become increasing popular in CT.
19.	Fee Schedule	9.3.B.	62	Current fee schedule is not consistent with current expenses, also lacks a number of frequent operational fee categories, as well as other categories that should be removed. Revisions to the other

At the conclusion of the 19 item discussion, the PZC agreed that the Chairman would provide draft revisions for each of the above items for use as a starting point in the revision discussion. Prior to providing the draft revisions to the commission members, Chairman Doug Dubitsky shall meet with the First Selectman & the ZEO to discuss the revisions. Any issues identified by the first selectman shall be included in the discussion of revisions for the specific items.

In order to keep the revision process moving forward, the commission selected seven (7) items from the above list, to commence the revisions discussion at the 9/8/16 PZC Meeting. The seven (7) items slated for revision discussions on 9/8/16, were selected as the commission felt that they would be quick revisions that would not require multiple meetings worth of discussion and would not likely have any opposition. The seven (7) Items slated for revision discussion on 9/8/16 are as follows:

1. Lighting Regulations
2. Open Space Subdivision Regulations
3. M.A.R.O.D. Regulations
4. Multi-Family District Regulations
5. Moratorium Regulations
6. Dog Kennel/Boarding Facilities
7. Logging Operations

In advance to the 9/8/16 PZC Meeting, Chairman Dubitsky shall provide the PZC Members with the draft revisions (after he has first met with first selectman).

### Correspondence

Chaplin was notified by the Town of Mansfield that the Mansfield PZC shall be proposing a limited and temporary moratorium on applications relating to Multi-Family development applications. The purpose of the moratorium is to allow the PZC sufficient time to update & revise the zoning regulations on Multi-Family housing in accordance with the goals and directives indicated in the Town's POCD.

Chairman Doug Dubitsky told the commission that the town has hired a new recording clerk to fill several vacant clerk positions. The Chaplin PZC is one of the commissions that has not had a clerk for nearly a year. Currently, the ZEO has been writing the monthly meeting minutes and it consumes a great deal of his time which is needed for other operational tasks. The newly hired recording is Liz Marsden, and she has already began clerking the Inland Wetlands Commission. Chairman Dubitsky stated he felt the PZC should take advantage of Mrs. Marsden presence and allow her to clerk the PZC meetings moving forward.

**Motion Made by Eric Beer to authorize Mrs. Liz Marsden, to begin clerking the PZC meetings starting at the next regular meeting in September (9/8/16). Seconded by Ken Fortier. All members voted in favor. Motion Carried.**

**Report of the Zoning Officer**

Jay Gigliotti discussed and reviewed his ZEO report for the month of August.

**Items Pro Re Nata:** None

**Adjournment:**

**Motion Made by Eric Beer to adjourn the 8/11/16 PZC Meeting. Seconded by Alan Burdick. All Members Voted In Favor. Motion Carried.**

**Chairman Dubitsky adjourned the 8/11/16 PZC Meeting at 9:43pm**

Respectively Submitted,

Jay Gigliotti