

**CITY OF TORRINGTON  
PLANNING AND ZONING COMMISSION**

**Minutes**

**August 25, 2010**

Present: Richard Calkins, Chairman  
Greg Mele, Vice Chairman  
Paul Summers, Member  
Christine Mele, Alternate  
Jim Bobinski, Alternate  
Donna Greco, Alternate

Also Present: Martin Connor, AICP, City Planner

Not Present: Doris Murphy, Member and Inland Wetlands Liaison  
Greg Perosino, Member

1. **Call to Order:** Chairman Richard Calkins called the meeting to order at 7:00 p.m., Torrington City Hall Council Chambers, Room 218, 140 Main Street, Torrington, CT

2. **Attendance/Announcement by Chairman:**

Chairman Calkins announced present and serving on the Commission this evening will be Paul Summers, Greg Mele, Christine Mele, Jim Bobinski, Donna Greco and Richard Calkins. Also present is City Planner Martin Connor.

3. **Minutes for Approval:**

a. 7/28/10

MOTION by Mr. Mele to approve the 7/28/10 minutes, seconded by Mr. Summers, unanimously carried. Mr. Bobinski abstained from voting.

4. **Old Business:**

a. Subdivision  
Applicant: Gene Barbero  
Location: Ridge Road, Assessor Map 222-7-38  
Proposal: Two lot subdivision

Dennis McMorrow, Berkshire Engineering and Surveying appeared before the Commission representing Gene Barbero. Mr. McMorrow provided some history on the site and gave a presentation of the current proposal.

Mr. Connor read his memo dated August 18, 2010 to the Commission. Mr. Connor recommended a fee in lieu of open space.

Mr. Calkins stated he prefers to see notes on the deed, not just the subdivision map, regarding the notation of no further subdivision of lots to be allowed.

MOTION by Mr. Mele to APPROVE Subdivision

Applicant: Gene Barbero

Location: Ridge Road, Assessor Map 222-7-38

Proposal: Two lot subdivision

with the following conditions:

1. The proposed iron pins shall be set and a letter from a surveyor shall be submitted prior to filing the recording mylar Subdivision Map.
2. The applicant shall address the comments of Assistant City Engineer Matt Walsh in an e-mail to the City Planner dated 8-23-10.
3. The applicant shall provide a bond in an amount acceptable to the City Engineer and in a form acceptable to the Corporation Counsel for the required public improvements on Ridge Road.

The Commission hereby grants the following waiver:

1. Waiver from providing sidewalks per Subdivision Regulations Section 4.4.21 as there are no sidewalks to connect to.

Mr. Connor noted for the record the Commission is accepting a fee in lieu of open space, and a note shall be placed on the deeds that there will be no further subdivision. All Commission members were in agreement with these statements.

Motion seconded by Mr. Summers, unanimously carried.

**5. New Business:**

a. Site Plan 984

Applicant: Borghesi Building & Eng.

Location: 474 New Litchfield Street

Proposal: Construct 12' x 20' concrete and steel storage shed

MOTION by Mr. Summers to table the application, seconded by Mr. Mele, unanimously carried.

At 7:20 p.m. the Commission took a recess before the public hearings.

**6. Public Hearings Scheduled for August 25, 2010, 7:30 p.m., City Hall Council Chambers, Room 218, 140 Main Street, Torrington, CT:**

a. Change of Zoning Regulations

Applicant: Westside Package Store, LLC & MGZ Partnership

Proposal: Section 5.3 (alcoholic beverages) of the Zoning Regulations be re-enacted in toto.

At 7:30 p.m. Chairman Calkins opened the public hearing and stated serving on the Commission this evening will be Jim Bobinski, Greg Mele, Christine Mele, Donna Greco, Paul Summers and Richard Calkins. Also present is City Planner Martin Connor.

Mr. Mele read the legal notice which was published in the Republican American.

Charles Brower, attorney, 445 Prospect Street, Torrington, appeared representing the applicants.

Elizabeth Weingart appeared and stated she was a Special Educator at the Torrington Middle School and she is in support of the proposal. She spoke of the bad influence alcohol/alcohol sales have on kids. She read excerpts outlining various problems towns around the country had with liquor stores.

Father Larry Michael of St. Mary's Church appeared before the Commission. He spoke of his experiences in Detroit and how he grew up in a package store. He is dismayed the 500 foot regulation distance from schools, hospitals and churches was removed. There are enough liquor stores in this City. He speaks for most the clergy in Torrington. Father Larry stated restaurants are different, food is served there and that is what children notice.

Chairman Calkins clarified this Commission does not get to determine how many liquor stores are in Torrington. The State of Connecticut determines that figure. The State of Connecticut has a similar set of guidelines which they may enforce as far as the proximity to schools, churches, and hospitals. It's up to the State to determine if they enforce it or not.

Mr. Connor added this Commission has determined what zones a liquor store can be located. It can be in the General Business zone or the Local Business zone as a permitted use. It has always been that way.

Per Mr. Calkins, the State Liquor Commission has the final say on the license for the package store.

Father Michael stated Torrington does not need any more liquor stores. Mr. Connor clarified we will not get any more liquor stores, the City has licenses for 14 liquor stores, we can't have any more than 14 stores. The State of Connecticut determines how many liquor licenses are issued per the population. The Commission felt the 5.3 regulation was unnecessary.

Bill Ponte, package store owner, appeared before the Commission. He stated alcohol is a drug and a controlled substance. There are 14 small businesses in Torrington that depend upon this rule, it's nice to have this rule. We should be for the small business person. He spoke of the money the State of Connecticut uses to fight under age drinking. Package stores near hospitals, schools, etc. will promote under age drinking.

Ashland Bowser, Colonial Spirit package store owner, appeared before the Commission. Liquor is a controlled substance. This change is not good, it was done for one person.

Mr. Brower spoke, many problems caused for churches and schools start when too many liquor outlets are located in close proximity to one another. The previous elimination of this regulation was requested by an out of town liquor store. A comment was made at the 5-26 meeting that Section 5.3 was being used by anti-competitive purposes. The reason for regulating liquor business is that liquor is potentially harmful to people. He spoke of other towns that have distance regulations between liquor stores. He gave copies of town ordinances from other towns for distance regulations. Mr. Brower read excerpts of Torrington City Council minutes.

Mr. Calkins stated the City's Corporation Counsel has stated that the State law preempts the municipal regulations and the town's location requirements have been addressed by State law and may be unnecessary. Mr. Brower disagrees with this. Mr. Brower stated this City now has a very low crime rate and is very orderly.

Mr. Calkins noted Mr. Brower stated this City has a low crime rate. Mr. Calkins inquired if Mr. Brower feels package stores contribute to the crime rate. Mr. Brower responded package store strips would contribute to crime.

Mr. Calkins asked Mr. Brower if he thinks package stores in the downtown area would be an undesirable use? Mr. Brower stated in a strip, one liquor store after another, yes. And the package store owners agree.

Mr. Calkins called for anyone appearing in opposition of the proposal.

Tom Welch, attorney with Welch, Tostidos, Yanich and Blake appeared on behalf of the owner of Warehouse Wine and Liquor in opposition to the proposal. His client is now up and running in the Stop and Shop plaza. One liquor store is allowed by the State per every 2,500 people in the City. Torrington can have 14 liquor stores, and that is the number they have. Mr. Welch noted that the old regulation did not have a distance requirement in the GB zone for taverns, restaurants and having to get a Special Exception do not apply to downtown. The Department of Liquor Control has not only the right to grant a permit, but to suspend or revoke a liquor permit. Mr. Welch read portions of the State Statue regarding locations that may be detrimental to public interest. In his client's case, Westside Package Store and MGZ Partnership and ten people or more have filed an objection. A hearing is set in September before the Department of Liquor Control regarding this matter. There is an avenue to hear this matter, people have a forum to speak. That is why a placard is put on the property. To put in a restriction as far as distance to package store, what is the magic of 1500 feet? It could be more, and the State of Connecticut does allow for a process to review this, and that is the purpose of those State hearings. It is within the City's Master Plan of Conservation and Development to change the zoning regulations such as they did. This would be a step backwards. The action in May 2010 was correct and he asked that this application be denied.

Mr. Calkins inquired of Mr. Connor that having this regulation removed from the regulations doesn't preclude the Commission from saying that a liquor store in a particular location is appropriate or inappropriate? Mr. Connor stated a package store would have to be located in either the General Business zone or a Local Business zone.

Mr. Brower noted that the Commission has eliminated their ability to stop a liquor store from locating near a school or hospital.

In response to a question from Mr. Calkins that if this regulation were reinstated, would any package stores within proximity of previous distance regulations become non-conforming, and Mr. Connor responded yes.

Mr. Connor read his memo to the Commission dated 8-19-10. Brief discussion amongst Commission members followed.

Peter Gersky, member of Liquor World LLC appeared before the Commission, he lives in Woodbury, CT. He spoke in favor of the proposal. He said it makes sense to protect the schools and churches and to protect the existing small business owners, 1500 feet to another package store. They have all found their niche and they have all abided by that rule, and now the rules have changed.

Mr. Calkins noted a previous lawsuit filed against the former owner of Mr. Gersky's package shop. By other liquor store owners.

Mr. Gersky presented further comments in favor of the proposal. The 500 foot limits should stay in effect for schools, hospitals, churches.

Mr. Calkins inquired what is it that people need to be protected from. Mr Gersky said they all have less preferred customers, not the \$100 wine bottle purchasers. Mr. Calkins asked for a clarification of what it is that the churches, schools, hospitals need to be protected from the package stores. Mr. Gersky stated the City should want to manage the location of these package stores.

Mr. Brower made closing comments, stating the initial approval to the package store on High Street did not comply with the distancing requirements.

Mike Zanderigo appeared before the Commission, noting drugs near a school carry a higher charge. He spoke of restrictions that are sometimes placed in leases at shopping centers.

At 8:45 p.m. Chairman Calkins declared the public hearing closed.

- b. Special Exception 10-247 and Site Plan 982
  - Applicant: O & G Industries, Inc.
  - Location: 3345 Winsted Road, Assessor Map 242 & 241, Block 1, lots 5, 8, 9, 10, 11
  - Proposal: Excavation, rock quarry, bi-annual renewal; retail sales as an accessory use

At 8:46 p.m. Chairman Calkins declared the public hearing open and stated serving on the Commission this evening will be Jim Bobinski, Greg Mele, Christine Mele, Donna Greco, Paul Summers and Richard Calkins. Also present is City Planner Martin Connor.

Ms. Christine Mele recused herself from this hearing as she has a conflict. She left the meeting.

Mr. Mele read the legal notice which was published in the Republican American.

Ken Faroni, Permit and Planning Coordinator for O & G Industries appeared before the Commission. Referring to a site plan, Mr. Faroni gave a presentation.

There were no comments from the public.

Mr. Connor read his memo dated August 17, 2010 to the Commission.

At 9:09 p.m. Chairman Calkins declared the public hearing closed.

MOTION by Mr. Mele to APPROVE Special Exception 10-247 and Site Plan 982

Applicant: O & G Industries, Inc.  
Location: 3345 Winsted Road, Assessor Maps 242 & 241 Block 1 Lots 5, 8, 9, 10 & 11  
Proposal: Excavation, rock quarry, bi-annual renewal; retail sales as an accessory use.  
with the following conditions:

1. The quarry shall not operate on Sundays or on any of the following holidays: New Year's; Good Friday; Memorial Day; July 4th; Labor Day, Thanksgiving and Christmas.
2. Except for routine maintenance, the quarry shall not operate on Saturdays.

3. All quarry operations, except routine maintenance, shall be limited to the hours of 7:00 a.m. to 5:30 p.m., Monday through Friday.
4. The crusher and the hammer shall operate between the hours of 7:00 a.m. and 5:30 p.m., Monday through Friday. Drilling shall occur only between the hours of 7:00 a.m. and 5:30 p.m., Monday through Friday.
5. No blasting shall occur on Saturdays, Sundays, or any of the following holidays: New Year's; Good Friday; Memorial Day; July 4<sup>th</sup>; Labor Day, Thanksgiving and Christmas.
6. Blasting shall occur between the hours of 9:30 a.m. and 4:30 p.m. O & G Industries, Inc. shall determine the schedule of Torrington and Winchester school buses that pass through the area. No blasting shall occur either a half hour before or a half hour after the time a school bus is scheduled to be in the area.
7. A blast warning shall be occur before blasting.
8. O & G Industries, Inc. shall notify all adjoining property owners 72 hours prior to a blast. With the property owner's approval, this notification may be reduced to 24 hours.
9. Any property owner within one half mile of O & G Industries, Inc. property can also request that O & G Industries, Inc. notify them prior to a blast. O & G Industries, Inc. must honor this request. With the property owner's approval, this notification may be reduced to 24 hours.
10. O & G Industries, Inc. shall designate an individual to receive, handle and log complaints from neighbors. The record of these complaints shall be presented to the Planning and Zoning Commission at, or prior to, the public hearing on the renewal of the special exception.
11. O & G Industries, Inc. shall maintain an earth or stone berm along the northerly periphery of the quarry nearing the existing foliage line. This berm is to provide acoustical shielding to the neighborhood and must be a minimum of 15 feet high. This berm must be reestablished prior to any additional material being removed from site.
12. O & G Industries, Inc. shall maintain an earth or stone berm on the existing/established quarry floor to provide an acoustical shield specifically for operation of the hammer.
13. The traffic signs along Winsted Road warning of trucks entering or leaving the site shall be maintained.
14. O & G shall maintain a "lock box" on the gate to the quarry. The lock box must meet the specifications of the Torrington Fire Department and the lock box shall be maintained.
15. O & G Industries, Inc. shall maintain a gate at the property's entrance on Winsted Road. This gate shall be locked when personnel from O & G are not on site.
16. Per Section 6.4.5 F of the Zoning Regulations, O & G Industries Inc., shall provide a bond in the amount of \$286,000.00, (\$10,000 per acre x 28.6 acres of disturbance) for restoring the current area of disturbance and the area to be disturbed during the two-year period of Special Exception, 28.6 acres. The bond shall be in a form acceptable to the Corporation Counsel.

The Commission hereby grants the following waiver:

1. Waiver of the five acre maximum area of excavation in accordance with Section 6.4.5 E of the Zoning Regulations.

MOTION seconded by Mr. Summers, unanimously carried.

7. **Adjournment:**

MOTION by Mr. Summers to adjourn at 9:15 p.m., seconded by Mr. Bobinski, unanimously carried at 9:15 p.m.

Planning and Zoning Commission