

MINUTES
REGULAR MEETING
PLANNING AND ZONING COMMISSION
LISBON TOWN HALL
TUESDAY, AUGUST 1, 2017
7:00 P.M.

1. Call to Order

The regular meeting of the Planning and Zoning Commission was called to order by Chairman Robert Adams, at 7:04 P.M.

MEMBERS PRESENT: Robert Adams, Ronald Giroux, Cheryl Blanchard, Sharon Gabiga, David Gagnon, Trevor Danburg, Benjamin Hull, III

MEMBERS ABSENT: Gary Ritacco, Kim Sperry, John Dempsey (ALT), James Labonne (ALT)

STAFF PRESENT: Michael J. Murphy, AICP, Consultant Planner-SCCOG,
Lisbon Town Planner

2. Previous Minutes

Motion by R. Giroux second by S. Gabiga to approve the previous minutes as presented.

VOTE: UNANIMOUS, MOTION CARRIED

3. Correspondence

a. Newsletter, CT Federation of Planning and Zoning Agencies

b. Memo, Lisbon Quarterly Submissions due August 11

4. Bills and action thereon - NONE

5. Reports:

a. ZEO – Brief update by C. Brown, Lisbon ZEO

b. Regulations –

1. Ordinance and Amendment for Citations and Fines for Zoning Violations – A motion was made by R. Giroux second by T. Danburg, that the Planning and Zoning Commission of the Town of Lisbon hereby endorses the *Citations Hearing Process* ordinance and the *Citation Procedures and Penalties* for Zoning Violations ordinance to improve zoning enforcement, build substantial public record to assist the commission in its administrative actions to obtain zoning compliance, and defray legal costs to the citizens of Lisbon accumulated over the full enforcement cycle. The Commission recommends that the Board of Selectmen pursue the necessary legal process for consideration and adoption of the attached ordinances (see attached).

VOTE: B.HULL, NO; MOTION CARRIES

c. Zoning Map Subcommittee - NONE

1. Update Regarding Route 12 Corridor Study and Zoning Amendments per POCD 2016

Town of Lisbon, Connecticut

Ordinance Establishing Citation Procedures and Penalties For Zoning Violations

The Town of Lisbon hereby ordains:

Section 1 . Purpose.

Pursuant to C.G.S. § 8-12a, as amended by Public Act No. 96-210, the Town of Lisbon adopts this ordinance for the purpose of establishing penalties for violations of the Lisbon Zoning Regulations, which were adopted under C.G.S. § 8-2, et seq. as amended.

Section 2. Procedure for Issuance of Citations.

A. Prior to the issuance of a citation, the Zoning Enforcement Officer or a duly authorized agent of the Town of Lisbon (hereinafter collectively referred to in this ordinance as the "ZEO"), shall have the authority to provide written notice to any person and/or property owner who causes or allows a violation of any provision of the Lisbon Zoning Regulations. Such written notice shall explain the nature of the violation and the steps required for compliance and shall allow a seventy-two-hour period within which to correct the violation or submit a written plan for correction that, with approval by the ZEO, shall set forth a reasonable time period for correction of the violation. A written notice of violation issued by the ZEO pursuant to this subsection shall be served:

(1) By hand delivery to an owner of the property, at which time the seventy-two-hour period shall begin; or

(2) By certified mail, return receipt requested, and by regular first-class mail to the property owner(s)' abode or residence. Three business days shall be allowed for mail delivery of the notice prior to the commencement of the seventy-two-hour period.

B. Within 48 hours after the period for correction established in Section 2.A. expires, the ZEO shall reinspect the subject property to determine zoning compliance.

C. If the violations set forth in the written notice have not been corrected at the time of reinspection, the ZEO may issue a citation and fine for each violation. All citations issued by the ZEO shall state the violation for which the citation is being issued, the fine imposed for the violation, the time period within which the fine must be paid, and an address for remittance of the fine. The fine for each violation shall be \$100 and each day of a continuing violation shall constitute a separate finable offense. Citations shall be issued to the violator(s) and property owner(s) by the ZEO via hand delivery, abode delivery or by certified mail. The date of delivery by hand or abode service, or the date the citation is mailed, shall constitute the citation issuance date.

Section 3. Compliance Periods after Citation is Issued for Determination of Continuing Violations; Repeated Violations.

The time period for correction of the violation(s) set forth in a citation shall be in accordance with the following requirements:

- A. For violations which involve the illegal use of a property by a nonstructural object such as a sign, vehicle, junk, etc., compliance with the zoning regulation(s) shall be made within 48 hours of issuance of the citation.
- B. For violations which involve the illegal use of a property by the conduct of an activity which is not permitted, cessation of the illegal use shall be within 48 hours of issuance of the citation.
- C. For violations which involve the illegal placement of a structure, all work on the structure shall immediately cease. The structure shall be removed within sixty (60) days unless a zoning permit is issued.
- D. All zoning violations not expressly included in Subsections A, B and C of this section shall be brought into compliance with the Zoning Regulations within 48 hours of the issuance of the citation or within such other time period as designated in writing by the ZEO.
- E. Any violation for which a citation is issued and which is not corrected within the time period allowed in this section shall constitute a new and separate violation for every twenty-four-hour period thereafter in which the violation is not corrected. For repeated violations of the same section of the Zoning Regulations with respect to the same property, the Zoning Enforcement Officer shall not be required to provide the violator and property owner with another written notice or correction period and may immediately issue the citations and fines permitted by this ordinance.
- F. The Zoning Enforcement Officer shall not be responsible for a daily reinspection, rather the person(s) to whom the citation has been issued shall be responsible for reporting subsequent compliance to the ZEO. The ZEO shall reinspect to confirm compliance within 24 hours of such report.

Section 4. Payment of fines.

- A. All fines imposed under this article which are uncontested shall be made payable to the Town of Lisbon and shall be received by the ZEO within ten (10) business days from issuance of the citation. Continuing violations shall accrue daily and, after the initial ten (10) days for payment from the issuance of the citation has passed, such accruing fines shall become immediately due and payable. All fines collected by the ZEO shall be directed to the Town Treasurer.
- B. If no payment is received for any fine imposed under this article within the time allowed for payment, then the ZEO shall act in accordance with the procedures established in § 13-3A of the Code of Lisbon.

Section 5. Hearing procedure for a citation.

The procedure for admitting liability to a violation under this article and the hearing procedure for any citation issued pursuant to this article shall be in accordance with the provisions set forth in § 13-3B through E of the Code of Lisbon.

Section 6. Other remedies.

The penalties established by this article shall not be exclusive of any other enforcement remedy which may be imposed by the ZEO for violations of the Lisbon Zoning Regulations, as authorized by any state statute, Town ordinance, or the Lisbon Zoning Regulations.

Section 7. Separability and Conflict

If a court of competent jurisdiction finds any provision of this ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or effective, and all other provisions of this Ordinance shall continue to be separately and fully effective. If any other ordinance or parts of ordinances are in conflict herewith, the more restrictive provisions shall apply.

Town of Lisbon, Connecticut

AN ORDINANCE ESTABLISHING A CITATION HEARING PROCESS

The Town of Lisbon hereby ordains:

Section 1: Establishment.

There is hereby established, in accordance with C.G.S. § 7-152c, a citation hearing procedure for the Town of Lisbon. The Superior Court has the authority to enforce the assessments and judgments provided for under this chapter.

Section 2: Appointment of citation hearing officers.

The First Selectman, acting within the capacity of chief executive officer, shall appoint one or more citation hearing officers, other than police officers or employees or persons who issue citations, to conduct the hearings authorized by this chapter. Further, no zoning enforcement officer, building inspector, employee or agent of the municipal body exercising zoning authority may be appointed to be a hearing officer for citations issued for zoning violations.

Section 3: Procedure.

- A. At any time within 12 months from the expiration of the final period for the uncontested payment of fines, penalties, costs or fees for any citation issued for an alleged violation, an official of the Town shall send notice to the person cited. Such notice shall inform the person cited:
 - (1) Of the allegations and the amount of the fines, penalties, costs or fees due;
 - (2) That the person cited may contest liability before a citation hearing officer by delivering in person or by mail written notice within 10 days of the date thereof;
 - (3) That if the person cited does not demand such a hearing, an assessment and judgment shall be entered against the person cited; and
 - (4) That such judgment may issue without further notice.

- B. If the person who is sent notice pursuant to Subsection A of this section wishes to admit liability for any alleged violation, that person may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees admitted to in person or by mail to an official designated by the Town. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within 10 days of the date of the first notice provided for in Subsection A of this section shall be deemed to have admitted liability, and the designated municipal official shall certify such person's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fines provided for within this chapter and shall follow the procedures set forth in Subsection D of this section.
- C. Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than 15 days nor more than 30 days from the date of the mailing of notice of hearing, provided the hearing officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. An original or certified copy of the initial notice of violation issued by the issuing official or police officer shall be filed and retained by the municipality and shall be deemed to be a business record within the scope of C.G.S. § 52-180 and evidence of the facts contained therein. The presence of the issuing official or police officer shall be required at the hearing if such person so requests. A person wishing to contest liability shall appear at the hearing and may present evidence. A designated municipal official, other than the hearing officer, may present evidence on behalf of the municipality. If such person fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes, ordinances or Zoning Regulations. The hearing officer may accept from such person copies of police reports, investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce his decision at the end of the hearing. If the hearing officer determines that the person is not liable, the hearing officer shall dismiss the matter and enter that determination in writing accordingly. If the hearing officer determines that the person is liable for the violation, the hearing officer shall forthwith enter and assess the fines, penalties,

costs or fees against such person as provided by the applicable Town ordinances.

- D. If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the Clerk of Superior Court facility designated by the Chief Court Administrator, together with an entry fee of \$8. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same person may be accrued and filed as one record of assessment. The Clerk shall enter judgment, in the amount of such record of assessment and court costs of \$8, against such person in favor of the municipality. Notwithstanding any other provisions of the general statutes, the hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment, and a levy of execution on such judgment may issue without further notice to such person.

- E. A person against whom an assessment has been entered pursuant to this section is entitled to judicial review by way of appeal. An appeal shall be instituted within 30 days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case pursuant to C.G.S. § 52-259, in a Superior Court facility designated by the Chief Court Administrator, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.

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6. Old Business:

a. Zoning Enforcement – NONE

1. Pending Litigation (Executive Session as needed)

i. Rick Gwiazdowski – 155 River Road – Discussion of correspondence from town attorney. The Commission is concerned over the lack of notice regarding the apparent April 2015 decision which fined Mr. Gwiazdowski \$1000.00. Records to be checked for compliance.

ii. Brenmor Properties – 8-30g Ames Road Subdivision – Atty. Hollister of Shipman & Goodwin, LP, One Constitution Plaza, Hartford, CT 06103 was present for the applicant. The Court ruled against the town in late June and the applicant will come back before the Commission to approve the application as-is. (Add under "New Business" on next agenda).

b. Regional Planning Commission – NONE

7. New Business

a. Receipt of New Applications

1. Zoning Permit Application – Ann Marie Davis, Spirit of Halloween, 160 River Road – for temporary signage for seasonal store - Motion by R. Giroux second by T. Danburg to table.

VOTE: UNANIMOUS MOTION CARRIED

b. Subdivision/Resubdivision – Brenmor Properties, LLC Route 169 & Ames Road – Motion by R. Giroux second by S. Gabiga to table till September meeting.

VOTE: UNANIMOUS MOTION CARRIED


c. Referrals – NONE

8. Any other business which may properly come before the commission - NONE

9. Public Comment – NONE

10. Adjournment - Motion made by R. Giroux second by T. Danburg to adjourn at 7:49 P.M.

VOTE: UNANIMOUS MOTION CARRIED



Elaine Joseph, clerk

Approved: _____
Robert Adams, Chairman

RECEIVED FOR RECORD AT LISBON
CT ON 08/07/2017 AT 9:30 am
ATTEST. LAURIE TIROCCHI, TOWN CLERK
Laurie Tirocchi, Attest