

Town of Woodbury Zoning Commission

281 Main Street South
Woodbury, CT 06798
203.263.3467 ▪ www.woodburyct.org

**MINUTES – APRIL 11, 2023
REGULAR MEETING
7:00 P.M. – SENIOR CENTER, 265 MAIN ST. SOUTH**

MEMBERS PRESENT:

Bob Wilson, Chairman
Robert Clarke
Donald Trella
Thomas Amatruda
Ted Tietz

MEMBERS ABSENT:

ALTERNATES PRESENT:

Jack Well
Casey Rushin
Elmer Kiessling

ALTERNATES ABSENT:

ALSO PRESENT: Town Planner Will Agresta, applicants and agents

1. OPENING OF MEETING

- a) CALL TO ORDER – Chairman Wilson convened the meeting at 7:00 p.m.
- b) SEATING OF MEMBERS AND ALTERNATES
Seated were Commissioners Clarke, Amatruda, Tietz, Wilson and Trella
CONFLICT OF INTEREST (*CGS Section 8-11 & Woodbury Town Charter Section 901*)

2. PUBLIC HEARINGS

- a) 23-ZC-0007 – 4 Main Street South / Map 104, lot 44 / MSD and HD#1
Special Permit / Site Plan: Change of Use per Zoning §5.1.3 for conversion of a portion of the first floor into a new two-bedroom apartment; retain remaining first floor area (approximately 900 sf) as a commercial business; and renovate the unfinished second floor into a new two-bedroom apartment. Also, proposed parking and minor exterior window improvements. Thomas M. and Lisa M. Amatruda (applicant/owner).

Commissioner Amatruda was unseated and Alternate Well was seated at 7:01 p.m.

Mr. Amatruda, applicant, addressed the Commission. Mr. Amatruda explained how the original application has been revised. The entire first floor will remain commercial use and the second floor will be a two bedroom apartment. There will be no covering on the outside staircase. The Historic District Commission has approved the application to repair the front of the building and repaint. The owners have a perspective low impact commercial tenant for the first floor to sell vintage items and antiques. Chairman Wilson called for any questions or comments from the

Commission. The parking situation was reviewed. The parking remains the same as previously proposed. Chairman Wilson called for any questions or comments from the public. There were none.

MOTION:

To close the Public Hearing on application (23-ZC-0007 – 4 Main Street South / Map 104, lot 44 / MSD and HD#1)

Made by Chairman Wilson, Seconded by Commissioner Tietz

Vote: 5-0-0 – Approved – Motion Passed

Ayes: Clarke, Wilson, Trella, Tietz, Well

Nays: None

Abstain: None

- b) 23-ZC-0001 – 75 Bacon Pond Road / Map 21, Lot 34A / PI District
Special Permit / Site Plan: New construction of two buildings including associated site improvements. 69 Bacon Pond, LLC (applicant/owner).**

Commissioners Trella and Tietz were unseated. Alternates Kiessling and Rushin were seated at 7:08 p.m.

1. Ron Wolff, Engineer, addressed the Commission. Mr. Wolff went through the revisions made to the plans as per the Commission's feedback. Chairman Wilson called for any questions or comments from the Commission. Commissioner Clarke asked for a "No Truck Traffic" sign on Sanford Road. The dimensions for the outdoor stockpile area were noted on the site plan and are about ¾ of an acre. Mr. Wolff noted that in a PI zone there is no maximum allowable coverage.
2. Gail McTaggart, Secor, Cassidy & McPartland, Attorney, addressed the Commission. Ms. McTaggart passed out information regarding the precedent set with the bus terminal parking Special Permit approval of a 13 % grade. This is a tried and true situation of an interpretation of the regulations. Chairman Wilson called for any questions or comments from the public.
3. Robert Kolesnik, Attorney, addressed the Commission. Mr. Kolesnik is representing three neighbors to the property; the Bartoli's, the Gengenbach's and the Fenn's. He stated that everyone is in agreement that if there is a discrepancy in interpreting regulations and ordinances; the zoning regulation supersedes. He then explained how the words "onto the lot," as used in regulation 7.3.2.1.e should be understood. He stated that the operative word is "lot," thereby meaning that it should apply to the whole driveway. If there is a special exception in an application, then the application needs to comply exactly with the regulations or an applicant needs a variance. The project has changed and grown since the initial zone change. If the neighbors had known the scope of the project, they might have gone for an appeal on the zone change but they did not have that opportunity. He asserted that this application is spot zoning. He stated that if the application does not comply then it needs to be denied.
4. He continued with saying the examples for a more than 10% grade driveway that the applicant has given are not the same. The bus company use is the same however school is only open for 180 days a year. The Senior Center grade exceeding 10% is a very short distance. The phone company is lower traffic and also a short distance. This application is asking for an exception for the majority of the length of the driveway. This is a self-imposed hardship and special variances

are not supposed to be used primarily for the benefit of the land / business owner. There were some items clarified for Alternates Rushin and Well.

5. Pam Gengenbach, 33 Sanford Road, addressed the Commission. Ms. Gengenbach stated that the petition from people who live in the surrounding area is not unreasonable. The application has turned into more than expected. She asks the Commission to make them comply on the driveway.
6. Ms. McTaggart rebutted that this is not spot zoning. The PI zone that was already there was expanded. The application went before the Planning Commission and they found it to be consistent with the POCD. She does not agree that the definition of lot stipulates what “onto the lot” means. The Town Ordinance does not say “onto the lot.” This application does comply with the regulations and would not need a variance since there are consistent examples of interpretation.
7. Ron Wolff rebutted that the plan submitted for the zone change is only a conceptual plan for feasibility. The driveway on the conceptual plan was in the same location and grading as it is now. The application actually scaled back the PI zone requested to create a boundary of residential zone.
8. Commissioner Clarke wanted it stated for the record that Ms. McTaggart should not refer to “this” Commission as having decided anything in the past. Ms. McTaggart stated that when she stated “this Commission” it was in reference to the Zoning Commission as a body, not the particular members that made up a certain Commission.
9. The Commission asked for Town Planner Agresta’s point of view. Mr. Agresta stated that when he read the code he interpreted it to apply to the entire length of the driveway. His initial interpretation was 5% for the first 30 feet from the road and a 10% grade of the driveway onto the lot. He felt that the regulations trumped the 15% grade allowed in the ordinance. Commissioner Clarke wanted clarification if the regulations or the ordinance has more weight. It is stated that if there is a conflict in statutes, whichever is the stricter statute applies. This only applies if it is decided that they are regulating the same thing. If they are regulating two different things at odds then they each apply separately. The Commission looked at Section 1.3.1.4.1. Both sides gave their opinion on this matter.
10. Commissioner Clarke felt that there have been opinions of four people including two lawyers and there is still not a consistent view. He would like to get the Town Attorney’s view on the matter. Chairman Wilson felt that when the commissioners have to vote they have to make the best interpretation of the information and vote in good conscience. Commissioner Clarke is concerned that with either choice the town could end up in court. If the Commission decides to get the Town Attorney’s opinion, then the Public Hearing would need to be extended.

MOTION:

To keep the Public Hearing open on application (23-ZC-0001 – 75 Bacon Pond Road / Map 21, Lot 34A / PI District) in order to have the Town Attorney review and speak on the interpretation of the driveway grade regulation.

Made by Chairman Wilson, Seconded by Commissioner Clarke

Vote: 1-4-0 – Not Approved

Ayes: Clarke

Nays: Wilson, Well, Rushin, Kiessling

Abstain: None

MOTION:

To close the Public Hearing on application (23-ZC-0001 – 75 Bacon Pond Road / Map 21, Lot 34A / PI District)

Made by Chairman Wilson, Seconded by Alternate Rushin

Vote: 4-1-0 –Approved – Motion Passed

Ayes: Wilson, Well, Rushin, Kiessling

Nays: Clarke

Abstain: None

3. PENDING and NEW APPLICATIONS

- a) **23-ZC-0009 – 192 Quanopaug Trail / Map 27, Lot 8A / OS-100 District Special Permit / Site Plan Amendment Outdoor Recreation (Archery Range and Club) per Zoning §3.4.6, amending Special Permits #110 (05/25/70) and 08-ZC-8020 (08/12/1) to add 18kw generator on a precast concrete pad. Gregg Lundy (applicant/agent), Algonquin Archers, Inc (owner) Pending Inland Wetlands Recommendation – OH by 05/18/23**

This application was before the Inlands Wetlands Agency last night. There was no vote taken yet.

MOTION:

To table application (23-ZC-0009 – 192 Quanopaug Trail / Map 27, Lot 8A / OS-100 District)

Made by Commissioner Clarke, Seconded by Chairman Wilson

Vote: 5-0-0 –Approved – Motion Passed

Ayes: Wilson, Well, Rushin, Kiessling, Clarke

Nays: None

Abstain: None

Alternates Rushin and Kiessling were unseated. Commissioners Trella and Tietz were reseated at 8:37 p.m.

4. ENFORCEMENT

- a) **22-ENF-0018 – 361 Rail Tree Hill Road / Map 54, Lot 3C-5 / OS-100 District Unauthorized Use: Short-Term Transient Visitor Lodging – Daniel & Francesca Lisk NPV sent 11/22/22**

Town Attorney Kaelin addressed the Commission regarding this matter. Mr. Kaelin stated that he represented the town of Avon on the same issue and has done extensive research on the subject. The Woodbury regulations are “permissive,” meaning that if a use is not specifically permitted than it is prohibited. VRBO is not specifically permitted, thereby it is prohibited. The Whibey case that the owner’s attorney argued is up on appeal. Mr. Kaelin does not feel that the Whibey case is applicable for many reasons mainly since it is a different set of regulations. The

Woodbury regulations make a clear distinction between transient guests and residents. The current regulations do not provide for the use.

Frank Pilicy, Attorney, agent for the owners, addressed the Commission. Mr. Pilicy stated that the statute based upon the Whibey case is binding. Unless there is a prohibition, as long as it is a single family use then it makes no difference. The fact that it is going to the appellate court is not compelling. He proposes three options for the Commission. 1) The Zoning Enforcement supports enforcement. A Cease and Desist order would be needed and then it would go to the Zoning Board of Appeals; 2) The Zoning Commission adopts a specific regulation to add short term renter regulations for a basis in the future and only deal with a handful of non-conforming cases including the Lisk’s property; 3) The Zoning Commission waits to see how the CT Supreme Court rules on the Whibey case.

Attorney Kaelin recommended option #1. Changing the regulations will make trouble and the owner gets to do whatever they want as a non-conforming use prior to the date of the new regulation. Alternate Well stated that if renting out your house allows you to keep your house or give extra income that is a good thing. Mr. Kaelin stated that you can change the regulations in the future but the regulations are clear in this case. Commissioner Clarke wanted the Town Planner’s opinion. Mr. Agresta deferred to the Town Attorney to direct the ZEO to take the next step. Discussion commenced that based upon the regulations this is an unauthorized use. Looking at the regulations in the future this use can be addressed, but not tonight. Commissioner’s Trella and Amatruda believe that people should be allowed to do somewhat of what they want with their property and hope to find a happy medium in the future. Chairman Wilson reassured the Commission that this regulation will be looked at in the future but that is not what is on the table tonight.

MOTION:

To instruct the ZEO to issue a Notice of Violation on Enforcement Item (22-ENF-0018 – 361 Rail Tree Hill Road / Map 54, Lot 3C-5 / OS-100 District)

Made by Chairman Wilson, Seconded by Commissioner Clarke

Vote: 5-0-0 –Approved – Motion Passed

Ayes: Wilson, Well, Clarke, Trella, Tietz

Nays: None

Abstain: None

5. DELIBERATIONS / DETERMINATIONS

Chairman Wilson presented for consideration the draft approval for Special Permit application (23-ZC-0008 – 920 Main Street South / Map 34, Lot 1D-A / OS-60 District). He called for discussion. There was a brief clarification.

MOTION:

To approve Special Permit / Site Plan per the Draft Approval Resolution date April 11, 2023, on application (23-ZC-0008 – 920 Main Street South / Map 34, Lot 1D-A / OS-60 District) as amended.

- Property is located within Historic District #2

Made by Chairman Wilson, Seconded by Commissioner Clarke

Vote: 5-0-0 –Approved – Motion Passed
Ayes: Wilson, Well, Clarke, Trella, Tietz
Nays: None
Abstain: None

Full motion is attached to the end of this document.

Chairman Wilson presented for consideration the draft approval for Flood Plain Permit application (23-ZC-0006 – 262 Minortown Road / Map 32, Lot 23 / OS-60 District). He called for discussion. There was none.

MOTION:

To approve Flood Plain Permit per the Draft Approval Resolution date April 11, 2023, on application (23-ZC-0006 – 262 Minortown Road / Map 32, Lot 23 / OS-60 District) as presented

Made by Chairman Wilson, Seconded by Commissioner Tietz

Vote: 5-0-0 –Approved – Motion Passed
Ayes: Wilson, Well, Clarke, Trella, Tietz
Nays: None
Abstain: None

Full motion is attached to the end of this document.

6. ADMINISTRATIVE

Chairman Wilson noted the quarterly reports submitted from Tietz Trucking and O & G Industries. He called for any questions or comments. The Commissioner's noted that they had not received the report for the Stiles Road quarry. That will be sent out and considered at the next meeting.

Chairman Wilson presented for consideration the minutes of the March 28, 2023, Zoning Commission meeting. He called for discussion. There was none.

MOTION:

To approve the minutes of the March 28, 2023, Zoning Commission meeting as presented.

Made by Chairman Wilson, Seconded by Commissioner Clarke

Vote: 5-0-0 –Approved – Motion Passed
Ayes: Wilson, Well, Clarke, Trella, Tietz
Nays: None
Abstain: None

7. DRAFT ZONING REGULATIONS WORK SESSION

MOTION:

To table consideration of the Draft Zoning Regulations

Made by Chairman Wilson, Seconded by Commissioner Clarke

Vote: 5-0-0 –Approved – Motion Passed
Ayes: Wilson, Well, Clarke, Trella, Tietz
Nays: None
Abstain: None

8. PRIVILEGE OF THE FLOOR

Commissioner Clarke asked for the Land Use staff to provide him with all ordinances pertaining to zoning. Mr. Agresta said that there are so many and if they are referenced they are available online. He will assist Commissioner Clarke if needed. Chairman Wilson noted that the ordinance pertaining to the application had been put out in the initial memorandum in order to be prepared for discussion.

Alternate Rushin was concerned that the Commission was not deliberating or directing staff in regards to application 23-ZC-0001.

MOTION:

To adjust the agenda and return back to Deliberations / Determinations

Made by Chairman Wilson, Seconded by Commissioner Clarke

Vote: 5-0-0 –Approved – Motion Passed

Ayes: Wilson, Well, Clarke, Trella, Tietz

Nays: None

Abstain: None

Commissioners Trella and Tietz were unseated. Alternates Rushin and Kiessling were seated at 9:20 p.m.

Town Planner Agresta clarified procedures and time lines for applications. Alternate Rushin was interested in hearing Commissioner Clarke's opinion on the ordinance versus the regulations. Commissioner Clarke believes that the intent is the same. Alternate Rushin does not feel that the regulations are the same as the ordinance. Chairman Wilson felt that the applicants have addressed everything that the Commission has brought up. Commissioner Clarke is concerned that the 10% maximum outside storage issue is being neglected. Alternate Rushin stated that there are a number of other businesses exceeding that. Mr. Agresta stated that the regulations allow for modifying the standard based on use and that precedent is not relevant. Mr. Agresta encouraged the Commission to decide how much and for what purpose they may modify the standards. He recommends input on the height limitation of the storage yard. Commissioner Clarke feels it should be no higher than the adjacent buildings. Alternate Rushin would like for the members to gather their thoughts individually and talk again at the next meeting.

MOTION:

To table discussion on application (23-ZC-0001 – 75 Bacon Pond Road / Map 21, Lot 34A / PI District)

Made by Alternate Rushin, Seconded by Commissioner Clarke

Vote: 5-0-0 –Approved – Motion Passed

Ayes: Wilson, Well, Clarke, Rushin, Kiessling

Nays: None

Abstain: None

Discussion of application 23-ZC-0007 will be taken up at the next meeting. Commissioner Trella asked if Flood Plain permits are something that can be handled by the staff in office. Currently the regulations require them to come before the Commission. This could be changed when the regulations are redone.

9. CORRESPONDENCE

There was no correspondence to consider at this time.

10. ADJOURNMENT

MOTION:

To adjourn the meeting at 9:46 p.m.

Made by Chairman Wilson

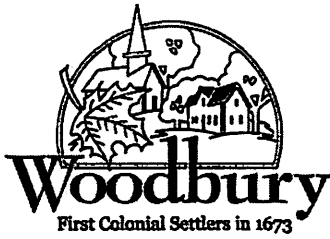
Respectfully Submitted,

Robyn Wright

Robyn Wright
Clerk for the Zoning Commission

Copies of documents and meeting audio are available at the Land Use Office

RECEIVED & FILED
IN WOODBURY, CT
This 18th day of April 2023
at 2:10 o'clock P M
Maria M. Marcus
Town Clerk



Town of Woodbury Zoning Commission

281 Main Street South
Woodbury, CT 06798
203.263.3467 ▪ www.woodburyct.org

SPECIAL PERMIT / SITE PLAN APPROVAL

23-ZC-0008 – 920 Main Street South

ACCESSORY USE – MAJOR HOME OCCUPATION

Jock Duncan and Lee Fuller Lawrason (applicant/owner)

Date of Approval	April 11, 2023
Permit Expiration*	April 11, 2028
*If conditions and improvements are not completed according to this approval	

Applicant **Jock Duncan and Lee Fuller Lawrason**
Owner **Jock Duncan and Lee Fuller Lawrason**
Application **23-ZC-0008 – Special Permit / Site Plan**
Project **Accessory Use – Major Home Occupation**
Address **920 Main Street South – Map 34, Lot 1D-A**
Zone **OS-60 and HD#2 Districts**

WHEREAS, the Woodbury Zoning Commission (“Commission”) has received application 23-ZC-0008 as submitted by the applicant/owner (listed above) seeking approval of a Special Permit / Site Plan in accordance with §4.1.3.4 of the Zoning Regulations of the Town of Woodbury (“Zoning Regulations”) for property consisting of approximately 1.61 acres located at 920 Main Street South as shown on Assessor Map 34, Lot 1D-A, within an OS-60 Zoning District and Historic District #2; and

WHEREAS, the application seeks to establish a Major Home Occupation (small shop selling “artisan works” not produced on the premises dba as Warrens Landing, LLC) accessory to the existing principal single-family residential use within a portion measuring approximately 25 feet by 25 feet (625 square feet) of an existing detached accessory structure located to the rear of the existing single-family dwelling, which shop floor area is considerably less than 50 percent of the dwelling floor area; and

WHEREAS, no nonresident employees are involved. Hours of operation when the shop would be open will be Tuesdays through Sundays, 11:00 am to 5:00 pm. A plan detailing adequate off-street parking in proximity to the shop has been demonstrated. No other outside use of the property other than a permitted sign are proposed; and

WHEREAS, the site is also located within Historic District #2. No exterior changes are proposed except a home occupation identification sign and use of existing off-street parking, for which a corresponding Certificate of Appropriateness (23-HD-0001) from the Historic District Commission was granted on February 6, 2023; and

WHEREAS, the subject property is not located within a regulated 100-Year Floodplain, regulated wetland/watercourse or associated upland review area, or a protected aquifer protection area; and

WHEREAS, application materials received include the following:

- Application for Special Permit / Site Plan;
- Narrative;
- Zoning Location Survey, Smith & Company, 02/12/01;
- Site Plan;
- Site Photos;
- Sign Details; and

WHEREAS, a duly noticed public hearing was open and closed on March 28, 2023; and

WHEREAS, the Commission has carefully considered all the information submitted and received, including all verbal and written public commentary; and

WHEREAS, this action does not eliminate the necessity for the applicant to obtain any other required local, state or federal permits and approvals;

NOW THEREFORE BE IT RESOLVED, upon careful consideration of the information received, the Commission, in accordance with Zoning §4.1.3.4, §7.3 and §8, hereby approves the application for Special Permit / Site Plan, subject to the *conditions and modifications set forth below*; and

BE IT FURTHER RESOLVED, the Commission hereby authorizes the publishing of a Notice of Decision; and

BE IT FURTHER RESOLVED, this approval shall replace and supersede all prior home occupation use and zoning approvals for the subject premises; and

BE IT FURTHER RESOLVED, this approval is specific to that detailed herein and the final plans as endorsed as “approved” by the Zoning Commission / Town Planner, *subject to the following modifications and conditions*:

A. Prior to Issuance of a Zoning Permit

The applicant shall complete the following prior to the authorized issuance of a required Zoning Permit:

1. **Final Site Plans** – The Town Planner shall endorse the Site Plan as the final “approved” Site Plan.
2. **Recording of Land Records Information Form** – The applicant shall obtain from the Land Use Office an endorsed original Land Records Information Form containing this approval and shall record same on the Woodbury Land Records with confirmation by the applicant to the Town Planner. Such shall be completed to effectuate this approval.
3. **Required Health, Zoning, Fire and/or Building Permits** shall be separately obtained by the applicant. Prior to issuance of an authorized Zoning Permit, the applicant shall provide the Land Use Office final Floor Plans for the first and second floor interior renovations for endorsement as “approved.”

B. Prior to Opening and Zoning Permit Compliance

1. **Final Inspection** – Prior to the authorized issuance of a Certificate of Zoning Compliance, the applicant shall request the Land Use Office conduct a final inspection for determination of permit completion, subject to verification of the following:
 - Confirmation that all is consistent with the endorsed final plans and the shop floor area.

2. Continuing Conditions of Operation Following Authorized Occupancy and Use

- The premises and improvements shall be maintained in good working order and shall be regularly maintained to function as designed free of debris, sediment and litter.
 - Appropriate and timely snow removal shall occur so there is no plowed snow stored within travel lanes, parking spaces or over landscaping to its detriment. No snow shall be plowed into or upon any abutting street right-of-way.
 - Permitted parking shall be limited to designated locations only. No unauthorized on-site parking or storage shall be permitted.
 - There shall be no external evidence of the home occupation, except the off-street parking and a zoning compliant sign.
 - Hours of operation shall be Tuesdays through Sundays, 11:00 am to 5:00 pm.
 - No nonresident employees shall be permitted.
 - Products sold shall be “artisan works” and may include those not produced on the premises.
3. **Changes in Use** – Consistent with Zoning §1.3.2 and §9.2, as may be amended from time to time, no use shall be established, relocated, changed or expanded prior to obtaining a Zoning Permit. Substantive changes in use shall require Zoning Commission approval prior to issuance of a Zoning Permit.
4. **Applicant/Owner Acceptance** – Acceptance of this approval shall be evidenced by the passage of the appeal period and the recording of the Land Records Information Form, indicating the applicant/owner’s agreement that this approval is contingent upon the strict compliance with this approval, Town Regulations and the modifications and conditions set forth herein.
5. **Approval Compliance / Changes** – Failure to maintain compliance with this Special Permit and the approved final Site Plans and Floor Plans shall constitute a violation of the terms of this Special Permit / Site Plan approval and the Zoning Regulations. Any variation from or alteration of the approved Special Permit or final Site Plans and Floor Plans shall require prior review and separate approval and permit.
6. **Expiration** – This Special Permit / Site Plan approval shall expire and be null and void without further written notice per the date set forth above unless all improvements as approved, including site stabilization and landscaping, are completed consistent with the approved final plans. The Commission may grant one (1) or more extensions of time to complete same, not to exceed an additional five (5) years total. Any request for extension shall be in writing to the Commission in a timely manner prior to the expiration date for which an extension is requested and shall state the reasons and circumstances for the requested extension. In considering any such request, the Commission may require a public hearing and shall review the continued adequacy of any held bond.

MOTION

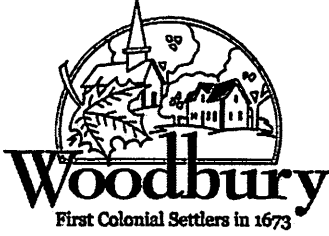
Moved by **WILSON**, Seconded by **CLARKE**

Vote: 5-0-0 – **APPROVED** – Motion **PASSED**

Aye Wilson, Trella, Clarke, Tietz, Well

Nay None

Abstain None



Town of Woodbury Zoning Commission

281 Main Street South
Woodbury, CT 06798
203.263.3467 ▪ www.woodburyct.org

FLOOD PLAIN PERMIT APPROVAL

23-ZC-0006 – 262 Minortown Road

Accessory Residential Propane Storage Tank and Generator

Anthony Jr. and Diana G. Mennone (owner/applicant)

Date of Approval	April 11, 2023
Expiration Date	April 11, 2025
<i>*If conditions of approval and improvements are not completed.</i>	

Applicant	Anthony Jr. and Diana G. Mennone
Owner	Anthony Jr. and Diana G. Mennone
Application	23-ZC-0006 – Flood Plain Permit per Zoning §6.1
Project	Installation of an above ground accessory standby generator and associated 120-gallon propane fuel storage tank to the rear of the house within a 100-year floodplain
Address	262 Minortown Road, Assessor Map 25, Lot 32
Zone	OS-60 and Flood Plain Districts

WHEREAS, the Woodbury Zoning Commission (“Commission”) has received application 23-ZC-0006 as submitted by the applicant/owner listed above seeking approval of a Flood Plain Permit in accordance with §6.1 of the Zoning Regulations of the Town of Woodbury (“Zoning”) seeking approval for the installation of an above ground accessory generator (to be placed upon a 5-foot high stand anchored to an underlying concrete pad) and associated 120-gallon propane fuel storage tank (to be anchored by galvanized G-115 sling Upright Tank Anchoring System to an underlying concrete pad) to the rear of the house within a 100-year floodplain, on property located at 262 Minortown Road, Assessor Map 25, Lot 32, within an OS-60 District and Flood Plain Overlay District; and

WHEREAS, application materials received include the following:

- Application for Flood Plain Permit;
- FEMA FIRM Map excerpt;
- Sketch Map showing approximate location of house, wetland/watercourse, proposed generator and propane storage tank;
- Minute Man Anchor Details (propane storage tank) and Gorilla Bolt Down Steel Stand (generator); and

WHEREAS, based on the FEMA FIRM map for the subject property, the base flood elevation through the property is approximately 355 feet and the ground elevation around the existing house is approximately 350 feet; and

WHEREAS, the generator is proposed to be installed on a 5-foot high stand (above the base flood elevation) anchored to an underlying base concrete pad; and

WHEREAS, the proposed propane storage tank is proposed to be installed anchored to a underlying base concrete pad above ground but below the base flood elevation; and

WHEREAS, when a utility fuel storage tank is located above ground below the base flood elevation, it must be secured (anchored) against floatation and lateral movement to prevent movement of the tank from its location, which can otherwise result in the tank breaking open, causing fuel leakage with risk of fire, explosion, water supply contamination, and possible health and environmental hazards; and

WHEREAS, protection from a tank floating away can be achieved by anchoring the tank to a concrete slab with (non-corrosive) hold-down straps, which straps must be engineered to bear the tensile stress applied by the buoyancy forces; and

WHEREAS, the site is not within 500 feet of the municipal boundary or within an Aquifer Protection Area; and

WHEREAS, the subject property includes regulated wetland/watercourse resources and corresponding regulated 100-foot upland review area, for which a separate review was conducted by the Inland Wetlands and Watercourses Agency (IWWA), which resulted in the issuance of a conditional Wetlands/Watercourses Permit (23-IW-0003) on March 27, 2023; and

WHEREAS, the Commission has carefully considered all the information submitted and received, including all verbal and written public commentary; and

WHEREAS, in accordance with Zoning §6.1.4, the Commission determined that a public hearing would not be necessary; and

WHEREAS, this action does not eliminate the necessity for the applicant/owner to obtain any other required local, state or federal permits and approvals;

NOW THEREFORE BE IT RESOLVED, consistent with Zoning §6.1, the Commission hereby finds the following:

- The proposed activity involves minor direct disturbance anticipated to have minimal environmental impact on the floodplain;
- The propane storage tank will be anchored to a base concrete pad on the ground to prevent floatation;
- The generator will be elevated above the base flood elevation on a stand anchored to an underlying base concrete pad to prevent floatation;
- Disturbance will be controlled and mitigated by the conditions listed below; and

BE IT FURTHER RESOLVED, in consideration of the above findings and consistent with Zoning §6.1, the Commission hereby **APPROVES** the application for Flood Plain Permit and authorizes the publishing and filing of a Notice of Decision as required; and

BE IT FURTHER RESOLVED, this approval is specific to that detailed herein and the final Site Plans endorsed as “approved” by the Commission/Town Planner, subject to the following modifications and conditions:

A. Prior to Commencement of any Site Work or Disturbance

1. **Final Site Plans** – The submitted Site Plans shall be endorsed as “approved” by the Town Planner.
2. **A Zoning Permit** (and other permits as may be required) shall be separately obtained by the applicant to implement this Flood Plain Permit.

B. Conditions During Construction

- 1. Prior to commencement of any associated site work or construction the Land Use Office shall be provided a minimum of 48-hours of notice. The applicant shall install and maintain erosion and sedimentation controls as may be needed or as otherwise required by the Land Use Office.
- 2. The Land Use Office shall be duly apprised of the status and progress of site work throughout construction, and promptly notified as to any issues or potential deviations in completing the site work as designed and approved, so either appropriate minor field changes may be authorized by the Land Use Office or the need for new or modified permit approval can be identified.

C. Post Construction and Zoning Permit Compliance Closure

- 1. **As-Built Plan** – An As-Built Plan acceptable to the Land Use Office shall be provided by the applicant in a form, content and number as required by the Land Use Office to determine permit compliance and satisfactory completion consistent with this approval and the endorsed final Site Plans.
- 2. **Final Inspection** – The applicant shall request the Land Use Office conduct a final inspection for determination of permit completion, subject to verification of the following:
 - All improvements have been completed consistent with the endorsed final Site Plans.
 - All conditions of the corresponding Inland Wetland Permit shall be completed.
 - The site has been cleared of construction related equipment, materials and debris.
 - All disturbed areas have been stabilized and exhibit healthy vegetative cover.
 - All erosion controls have been appropriately removed and disposed of.
- 3. **Applicant/Owner Acceptance** – Acceptance of this approval shall be evidenced by the passage of the appeal period, indicating the applicant/owner’s agreement that this approval is contingent upon the strict compliance of this approval, the modifications and conditions set forth herein, and with town, state and federal regulations and requirements.
- 4. **Approval Compliance / Changes** – Failure to maintain compliance with this Flood Plain Permit and the approved final Site Plans shall constitute a violation of the terms of this approval and the Zoning Regulations. Any variation from or alteration shall require prior review and separate approval and permit.
- 5. **Expiration** – The approval of this Flood Plain Permit shall expire and be null and void without further written notice per the date set forth above unless all improvements as approved, including site stabilization, are completed consistent with the approved final Site Plans. The Commission may grant one (1) or more extensions of time to complete same. Any request for extension shall be in writing to the Commission in a timely manner prior to the expiration date for which an extension is requested and shall state the reasons and circumstances for the requested extension. In considering any such request, the Commission may require a public hearing.

MOTION

Made by **WILSON**, Seconded by **TIETZ**

Vote: 0-0-0 APPROVED – Motion PASSED

Aye	Wilson, Trella, Clarke, Tietz, Well
Nay	None
Abstain	None