

TOWN OF WESTON, CONNECTICUT  
ZONING BOARD OF APPEALS HEARING  
October 28, 2014

MINUTES

Present: Board Members: Chairman MacLeod Snaith, Vice-Chairman Richard Wolf, Robert Gardner, Glenn van Deusen and Alternates: John Moran and Donald Scarborough

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Mr. Snaith opened the public hearing at 7:32 p.m. The Board Secretary read the legal notice into the record.

VALLEY FORGE ROAD, owner, AQUARION WATER COMPANY OF CONNECTICUT, Map 9, Block 3, Lot 3, Weston Land Records Map 3574, Appeal from the Zoning Enforcement Officer's decision not to issue a cease and desist order to Aquarion Water Company of Connecticut as requested by letter on June 5, 2014

Steve Nevas, Esq. and the owners of 186 Valley Forge Road came forward to present the appeal. Attorney Nevas explained that Mr. & Mrs. Lewis purchased the house in May of 2014 and soon after they moved in, an Officer from Aquarion informed them that there was a firing range across the street. It is very loud and sited in the ravine which amplifies the sound. They know from the Weston Police Department that their officers train there and it is also used by Westport, Fairfield, Redding and recently the Regional Swat Team. They were also informed that there are 5 or more officers at the range when it is being used. They fire shotguns and semi-automatic weapons approximately 35-40 days per year.

The owners question whether an operation of a firing range with that intensity of use is permitted by the Zoning Regulations in what is clearly a residential area. Attorney Nevas noted that Sec.321.1, Permitted Principal Uses, Sec.321.2, Accessory Uses and Sec.321.3, Special Permit do not seem to give authorization for operation of a firing range. When he contacted the Zoning Enforcement Officer and asked him to issue a Cease & Desist Order, he was told that the firing range is closed until sometime next summer and there was nothing to cease and desist since there will be no shooting going on there for another 15 months. Attorney Nevas asked the Board members to find that continuous use of the dam for a firing range is contrary to the Town's Zoning Regulations.

Mr. Lewis came forward and stated that he and his wife have lived in Weston for 25 years, down the hill from their current location and was shocked when the officer from Aquarion mentioned work being done on the dam and the firing range. It was the end of their tranquil retirement "dream home". What might have been ok when it was started has now become inappropriate and unacceptable today as the area which was previously not residential has become a residential neighborhood area. He presented a video showing the range in use to make the point of what they now hear in their living room.

Mrs. Lewis came forward and stated that they understand how important training is now days because it has become a dangerous world. But as citizens, they seek a tranquil and peaceful home and it will be difficult to continue if the firing range stays there.

Mr. Snaith asked Attorney Nevis to address the issue of the Cease & Desist and he stated that they requested a Cease & Desist Order and the Zoning Enforcement Officer's decision was to do nothing. Whether or not the activity is occurring at that point, there is reason to believe that the activity is intended to resume, the action is appropriate and failure to do so is a valid legal basis for appeal. Mr. Snaith explained that when the activity resumes, then the Zoning Enforcement has something to cease. Mr. Wolf questioned whether Aquarion, as a Public Utility, has to comply with the town Zoning Regulations. Attorney Nevas stated that he believed that they do as they are obligated to comply with regulations for other activities on the property.

Robin King, 3 Fawn Meadow Road, came forward and stated that when they first moved in they heard loud banging and called police were told that it was the firing range. There are no signs, they did not know it was there and it is very disturbing.

David King, came forward and stated that he has respect for law enforcement but it is REALLY loud as in training combat scenarios. When the dam was built, there were no neighbors around and now the area has become more developed.

Heather Valteris, 178 Valley Forge Road, stated that maybe at present they are not doing anything there but there is nothing to say that they won't start tomorrow. It might be prudent to issue the Cease & Desist because there is only a verbal indication that the activity is stopping.

Steven Kay, 2 Fawn Meadow, asked what the process would be to see if they are in violation of the Zoning Regulations and Mr. Snaith explained that the only way around the regulations is a special permit and none has been issued.

Ellen Uzenoff, 180 Davis Hill Road, came forward and stated that she has a different perspective. The dam has been used as firing range for as long as she can remember and they totally support the officers being trained appropriately, but she also knows that neighbors have approached the Town several times over the years. She noted that in 1993 the police department worked with the First Selectman and neighbors and came up with an agreement that the training would be two weeks in a year, one in May and the other in September for use by the Weston Police Department. If Westport wanted to use the range they were confined to that same time period. She also stated that it is overwhelming because the noise is so loud.

Mr. Van Deusen questioned that if it is a deafening noise and the owners lived just down the hill for 25 years, how did they not know the range was there? Mr. Wolf asked if they could establish when the firing range began and it was noted that there is no documentation as to when it began. Attorney Nevas commented that the nature and intensity of the use has increased over the years.

John Valteris questioned how the Cease & Desist works and has an issue with why it can't be issued since it is an on-going activity that has just been postponed. Discussion ensued.

James Pjura, Zoning Enforcement Officer, came forward and explained that he did not issue a Cease & Desist Order because after looking at the regulations and discussing the issue, he determined that there was nothing to Cease & Desist since nothing was happening.

Pat Sullivan, Town Attorney, came forward and explained that a Cease & Desist Order is issued to stop an infraction. Since there was nothing happening that we could stop, there was no reason to issue a Cease & Desist. If the shooting resumes and the Zoning Enforcement Officer determines that it is a violation of zoning regulations, he can issue a notice of violation and the owner of the property has the ability to respond.

Police Chief Troxell came forward and explained that this is not a recreational shooting range, it is serious business and the officers take their jobs seriously. He noted that he is bound by law and has the responsibility to properly train the officers. He also stated that he believes that BHC, or Aquarion as it is known now, received a special permit in 1993 from then First Selectman George Guidera. Chief Troxell stated that he understands that times have changed and equipment has changed and is sorry to hear that neighbors are upset by the training. He further noted that the Weston training occurs during the school year and not before 8:30 a.m. and not after 3:00 p.m. Officer Miscelli came forward and spoke to the training. He stated that it is not easy to train now that the facility has closed. Weston is blessed to have a facility available and while there are other facilities somewhat local, typically they are booked over a year in advance. He noted that it has been operational since 1980, there has never been anyone injured, it is professionally organized and supervised and for law enforcement only.

Heather Valteris commented that the general sentiment is support for the Weston Police Department and when they moved in they understood that it would be two weeks out of the year, but it has turned into more weeks and greater usage.

Patty Gay, Weston Forum, questioned when Aquarion notified the police department that they would be doing construction on the dam so that they would have time to find alternative location? George Logan, representative from Aquarion, stated that it was a matter of months prior to the construction work.

Bob Ferguson, 10 Hickory Lane, came forward and explained that he had been involved in an identical complaint at a firing range in Guilford, CT. He stated that he does not dismiss the neighbors' complaints about the noise. In Guilford, it started with a noise complaint then migrated to a zoning complaint, then into an environmental complaint when the others were struck down. He stated that the State passed a Range Protection Act in 1998 and read that into the record. Mr. Ferguson also explained that the only way to maintain accuracy rates is to continue training locally and while he is not concerned with the other towns, he is concerned with the training of our officers. He also noted that it is Free for the officers to use the range and if they were forced to go elsewhere, it would be a lot more money going to the taxpayers. God forbid the officers would have to use the training in a real world situation and it is an issue of public safety for all residents of Weston.

George Logan, representative from Aquarion, came forward and explained that all the training is coordinated with the town of Weston and the Aquarion Security Force also uses the site for

training. He stated that it has recently been used between 20-30 days a year and Aquarion is more than willing to work with the Town to figure out a compromise. They are willing to continue discussions but believe that a Cease & Desist Order is excessive. Mr. Logan also noted that, technically, Aquarion is exempt from local Zoning Regulations but they are willing to do whatever possible to work with local zoning regulations.

Attorney Nevas then asked the Board to leave the record open for submission of additional information.

The public hearing was continued to the next meeting, November 25, 2014.

APPROVAL OF MINUTES

Mr. van Deusen made a motion to approve the Minutes from the September 23, 2014 hearing and the October 19, 2014 and October 27, 2014 site walk meetings and Mr. Gardner seconded. All in favor, the motion carried (6-0).

MOTION TO ADJOURN

Mr. Wolf made a motion to adjourn and Mr. Moran seconded. All in favor, the meeting adjourned at 9:36 p.m.

Respectfully submitted,

Delana Lustberg  
Board Secretary

Date Approved: 11/25/2014