

PLANNING & ZONING MINUTES FOR FEBRUARY 23, 2009 PAGE 09-23
Present: Stephan Grozinger, Chairman; Don Saltzman, Paul Heifetz, Dan Gilbert, Ridge Young. Absent: Jane Connolly and Katie Gregory.
Land Use Director, Tracy Kuliowski, present.

Meeting on tapes 1-5 dated 2/23/09

CHAIRMAN'S REPORT:

Stephan Grozinger reported on the Performance Review for James Pjura, Zoning Enforcement Officer and felt that another review should be conducted. Also that a meeting with retiring Robert Turner, Consultant, should be conducted for the last Planning & Zoning meeting in May (May 18th).

The Land Use Director reported that a comprehensive subdivision list is being created for the Town, with the plan that this information eventually will be on the Field Cards, in order to be referenced for procedures and permits.

Stephan Grozinger, as Chairman of the Commission, will be meeting with James Pjura, Zoning Officer each Wednesday.

Mr. Grozinger then referenced Town Attorney Pat Sullivan's memo dated 2/13/09 regarding subdivisions which included the Goodridge v. ZBA case and also the Balf v. ZBA case. A discussion followed. Mr. Grozinger stated that he would put together a package of material on subdivisions for each member.

Town Attorney Pat Sullivan is going to be here at the meeting next week, on March 2, to give her presentation on Affordable Housing.

DISCUSSION: LITIGATION CN BUILDERS & CHARLES V. NIEWENHOUS V. PLANNING & ZONING COMMISSION.

The Land Use Director stated that the requested map is not done. Attorney Rubin has submitted some new material since January 5, 2009 about Tax Lot 88 which is served by a twin driveway and Tax Lot 43. Attorney Rubin, for the Shaeffer's (Tax Lot 43) is working on an agreement to not use their driveway onto the accessway. Also a certification letter from Land Engineering, dated February 11, 2009 on the size of the lot. A drainage calculation was submitted, which the Town Engineer has reviewed along with site plans and he has recommended approval.

APPROVAL OF MINUTES:

Dan Gilbert moved that the Commission approve the minutes, with corrections made by the Chairman and Dan Gilbert, of January 5, 2009. Seconded by Ridge Young. Vote in favor (5-0) Jane Connolly and Katie Gregory absent.

APPROVAL OF MINUTES CONT:

Don Saltzman moved that the Commission approve the minutes, with corrections made by the Chairman and Dan Gilbert, of January 26, 2009. Seconded by Ridge Young. Vote in favor (5-0) Jane Connolly and Katie Gregory absent.

Don Saltzman moved that the Commission approve the minutes, with corrections made by the Chairman and Dan Gilbert, of December 15th, 2008. Seconded by Ridge Young. Vote in favor (5-0) Jane Connolly and Katie Gregory absent.

ENFORCEMENT ISSUE REPORT CONTINUED: LIEBERMAN, 4 GOODHILL ROAD J. PJURA, ZONING ENFORCEMENT OFFICER

Dr. Lieberman, Attorney George Guidera and the Zoning Enforcement Officer were present.

Attorney Guidera had hand delivered proposed changes to the Weston Zoning Regulations to the Zoning Enforcement Officer and the Land Use Director, for a medical use in the Town of Weston. He also submitted them to the members at the table. Attorney Guidera then stated that he has never been very happy with the Special Permit section in the Zoning Regulations because uses can appear anywhere in Town. He went on to describe what a medical doctor is and what kind of support is needed for a medical office. He felt this is not a definitive proposal but wanted the members to listen to Dr. Lieberman, in order to outline how many doctors you have and what they are to do and the demands of the community.

The Chairman clarified that tonight is an informal discussion and that was agreed. Dr. Lieberman then proceeded to go thru the history of his time in Weston as a doctor/pediatrician and a resident. He owned a house at 340 Goodhill Road (which he has sold since his divorce) and then purchased 4 Goodhill Road on January 2, 1979 which is where the medical office is now. Before that, he was in private practice in Westport.

On October 4, 1983 he received a special permit for this location, where he has been for 25 years. At first it was a part time office, two days a week and three days a week he practiced at Bay Street Pediatrics in Westport until 1987. In 1997 Dr. Lieberman moved to Weston full time and needed a Physician's Assistant to help run the office and then a part time pediatrician and then acquired another part time pediatrician to work two days a week, seeing twenty patients per day. He stated that each doctor should have three staff people. He stated that his office is very small consisting of 1,000 square feet. He came to the Town to get an approval to enlarge the facility and was denied. The demand is here and we just need to fill it. He knew he did not conform with the law and was only allowed two people other than himself, with his special permit. Dr. Lieberman stated that he does

DR. LIEBERMAN CONT:

live in the house right now. Dr. Lieberman is looking to sell the practice and retire at some future time, maybe in 2010.

Paul Heifetz stated that there are issues here and Dr. Lieberman has to abide by the Home Occupation regulation. The Commission is concerned about spot zoning to create a medical office and it is something the town needs to address. Don Saltzman felt that something should be done to serve the community. Paul Heifetz felt there is another solution and that Fort Apache Medical Office complex, in Westport, is crying for doctors. He also felt that we depend on the Town of Westport for a lot of our services.

The Chairman asked Dr. Lieberman how many patients he has and the answer was about 1,000 families with about 4,000 children. He felt there is a need here and he sees, on average, about 20 patients a day. He referred to the article in the Weston Forum about two doctors from this practice, moving to an office in Westport. Dr. Lieberman also explained that there is a total of 12/13 medical staff and only six are in the office at one time. There are only two doctors and the rest are support staff. Attorney Guidera suggested that perhaps some of the staff could be placed off site. He felt the Home Occupation regulation does not fit a medical office.

Dr. Lieberman wrote letters to all his patients stating there would be a public hearing on March 16th. Attorney Guidera stated that he has done a petition. It was stated that the present location meets all the setbacks except from Weston Road, which is 68 feet and should be 100 feet. Dan Gilbert stated his concern on how do we protect the neighbors. Dr. Lieberman stated that no one has complained about the traffic in the 25 years he has been there. It is an isolated house and 200 feet back from Goodhill Road.

Ridge Young questioned Dr. Lieberman on how many of his patients come from outside of Weston? He responded that it varies but more than 50% come from Weston.

Dan Gilbert felt the Commission should invite Dr. Lieberman back for another informational meeting on March 2. Then at the March 16th meeting, a public hearing could be held.

Ridge Young asked if this request is for medical or other business'? Dr. Lieberman stated that he is concerned about a cease and desist. Paul Heifetz stated that this is an issue that will take some time to resolve and did not think the Commission can allow it. Also can we allow this office to function while we are addressing it?

DR. LIEBERMAN CONT:

The Chairman stated that the Commission has the 2006 enforcement letter from which calls for the Enforcement Officer to send out a demand letter giving the home owner a chance to solve the problem and if it doesn't get solved, it comes to the Commission, at which point we exercise our discretion. We, in his opinion, should let that enforcement letter stand and not make a special exception. Dr. Lieberman could not conform in ten days.

Dan Gilbert stated that he is not going to let this letter force the Commission to make a bad decision. Our goal is to solve the problem. He suggested putting the letter in the file and in 6 weeks from now we will know how to resolve the issue.

Don Saltzman stated that Dr. Lieberman has come in with a text change and it is underway and according to the administrative plan that we have, we don't need the demand letter. Dr. Lieberman and Attorney Guidera are going to create a text change. Paul Heifetz felt the Commission was going down a slippery slope. Ridge Young felt Dr. Lieberman has been practicing since 1979 and we know this has been going on for awhile. He felt that Dr. Lieberman has been very upfront and honest.

The Chairman stated the clock is ticking and he would like to follow the procedure.

Don Saltzman moved that the Commission continue the suspension of the procedure. Seconded by Dan Gilbert. Vote in favor - Don Saltzman, Dan Gilbert, Ridge Young for extending the suspension and Paul Heifetz and Stephan Grozinger nay. (3-2)

The motion was amended by Don Saltzman to add that the date of the application should be submitted and the suspension end, by March 16th. Vote in favor 4-1 Stephan Grozinger nay. Paul Heifetz voted in favor for the date only.

Discussion: Dan Gilbert felt it should be suspended until there is an application from Dr. Lieberman that is bought before this Commission and the Commission makes a decision on this application. Also that Dr. Lieberman and Attorney George Guidera have an obligation, by a date determined and it forces us to make a decision. He felt the Commission should have one more dialogue meeting and another meeting to follow up, starting at the March 2nd meeting.

The Land Use Director stated her concern for timing regarding notifying SWRPA.

PUBLIC HEARING CONT: NEW SECTION 321.8 OF ZONING REGULATIONS,
ZERO INCREASE IN RATES AND EROSION AND DEFINITION TO BE ADDED
TO SECTION 610. ZERO INCREMENTAL RUNOFF

Dan Gilbert had talked to Robert Turner, who suggested that this section be incorporated in Section 314, so it applies to everything.

The Chairman referred to the comments made by Pat Sullivan, Town Attorney and questioned if it is only storm water runoff only from a storm?

The Commissioners had not received this memo from the Town Attorney so they agreed to discuss this item at the next meeting.

Meeting adjourned.

Respectfully submitted.

Joan Lewis, Administrative Assistant

Approval: