

Present: Stephan Grozinger, Chairman, Jane Connolly, Vice Chairman; Don Saltzman, Katie Gregory, Ridge Young, David Allen – Joe Limone, absent

Also present: Tracy Kulikowski, Land Use Director

Meeting on tapes 1-5 dated 12/6/10

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#### APPROVAL OF MINUTES:

The minutes for November 15<sup>th</sup>, 2010 had not been read by all members, so this item was moved to the December 20<sup>th</sup>, 2010 agenda for approval

#### CHAIRMAN'S REPORT:

The Chairman stated that he did meet with the Zoning Enforcement Officer this past week but did not write a memo. He also met with the Planning & Zoning chairmen for the region and the main topic for discussion was affordable housing. Also met with the Bicycle & Pedestrian Committee for their organizational meeting.

#### RECEIPT OF APPLICATION: ACTIVITY IN A FLOOD ZONE – BABIVSKIY, LOT J NEWTOWN TURNPIKE AND OLD MILL ROAD, NEW HOUSE

Mr. and Mrs. Babivskiy were present to go over their flood zone application for a new house, located on Lot J and Newtown Turnpike and Old Mill Road. Don Saltzman questioned if this lot was in a subdivision? The Land Use Director stated that she had not heard from SWRPA yet and that the application is presently before the Conservation Commission and they are seeking a third party review of the application. Mr. Babivskiy stated that he did not yet have the Engineer's letter. A discussion followed regarding that if Conservation is going to make any changes to the submitted plan, it might be best to wait. Mr. Babivskiy wanted to do the right thing. Don Saltzman questioned if a permit is needed to discharge into the river? Stephan Grozinger stated that this would be part of the Engineer's letter which we do not have yet. After discussion, Don Saltzman felt it would be prudent to wait. Mr. Babivskiy then explained the proposed project to the Commission, for the new house.

The Land Use Director stated that the engineer will be here for the public hearing to answer questions about the flood zone. Stephan Grozinger felt the Engineer's letter is crucial and needed as soon as possible.

**RECEIPT OF APPLICATION: BABIVSKIY – FLOOD ZONE ACTIVITY CONT:**

Katie Gregory moved that the Commission receive the application for Mr. Babivskiy for activity in a flood zone for a new house, located on Lot J, Newtown Turnpike and Norfield Road. Seconded by Stephan Grozinger.

Discussion: Jane Connolly felt the Commission was putting themselves in a box as they still need Conservation Commission approval. This application is complicated and there may be a different plan from Conservation and felt it more prudent to wait until Conservation's expert looks at it.

Vote 3 in favor and 3 nay (nay votes – Ridge Young, Don Saltzman and Jane Connolly) (in favor votes – Katie Gregory, Stephan Grozinger and David Allen)

Stephan Grozinger stated that nothing can happen at this time. The applicant will wait to hear from the Conservation Commission and the Engineer's letter and then come back to Planning & Zoning Commission.

**DISCUSSION/DECISION: MODIFICATION TO ZONING PERMIT, PETER'S MARKET EXPANSION REQUEST FOR 204 WESTON ROAD (TOLK)**

The applicant, Josh Tolk, was not present and the Commission did not want to discuss the draft decision without Mr. Tolk. A copy of the draft decision will be mailed to Mr. Tolk so he can read it before the next meeting.

Ridge Young moved that the Commission approve waiting until the next meeting, December 20<sup>th</sup>, 2010, to discuss the draft decision with Josh Tolk. Seconded by Jane Connolly. Vote in favor (6-0) Joe Limone absent.

**PUBLIC HEARING CONT: DETERMINATION PURSUANT TO SECTION 8-26 OF THE CONNECTICUT GENERAL STATUTES OF WHETHER SUBDIVISION APPROVAL IS REQUIRED, REVISED PARCEL 515B ON MAP 3443 AND REVISED PARCEL 475A AND 475B ON MAP 3444, GEORGETOWN ROAD (LOST TRAIL LLC)**

Attorney Fuller sent an extension letter to continue the application to December 31, 2010, and also stated that he was unable to attend the meeting tonight.

Jane Connolly moved that the Commission approve extending this application to December 20<sup>th</sup>, 2010, per Attorney Fuller's request. Seconded by Don Saltzman. Vote in favor (6-0) Joe Limone absent.

LOST TRAILS LLC CONT:

Don Saltzman requested that that the Commission discuss Attorney Zizka's opinion. Stephan Grozinger felt it was not appropriate to discuss this letter now. It was stated that Attorney Zizka could talk and answer questions by telephone for 1 hour, if the meeting starts at 6:30 p.m. on Monday, December 20, 2010.

It was also stated that the Commission could discuss this matter under Other Business at the end of this meeting.

PUBLIC HEARING CONT: MODIFICATION TO SUBDIVISION APPROVAL, FAR HORIZONS SUBDIVISION, 10 LADDER HILL ROAD (ADC-10 LADDER HILL LLC/SPATH)

Mike Burtholda, licensed surveyor and a member of the Huntington Company, was present to discuss the modification re-phase Lot 1 from the current phasing plan showing Lot 1 as part of Phase 3 to a new phase to be called Phase 1A, thus enabling the developer to transfer and sell this lot prior to the construction of the private lane and common driveway serving lots number 2, 3, and 4. Due to the current land market conditions, by the removal of Lot 1 from this phasing plan and allowing the sale of this free-standing lot, it will allow the developer to use these funds towards the construction of Phases one and two and the reduction of the current mortgage.

It was noted that the mylar has not been filed yet because of litigation and would have to wait for the litigation to be over.

Stephan Grozinger asked if any of the members who had missed the meetings, listened to the tapes. No one had. Stephan Grozinger stated that Katie Gregory could not legally vote because she did not listen to the tapes, but had read the minutes. A super majority is needed to change a condition only for a waiver. The Commission referred to the regulations and the Chairman felt that the Commission should forward this application to the next meeting's agenda on December 20, 2010.

DISCUSSION/DECISION: ENFORCEMENT REFERRAL FROM ZONING ENFORCEMENT OFFICER: GANS, 27 RIVERFIELD, 9/30/10 ORDER OF REMOVAL FOR REGRADING IN VIOLATION OF SECTION 348.4 OF THE ZONING REGULATIONS. OWNER HAS REQUESTED WAIVER OF THE SURVEY REQUIREMENT.

Stephan Grozinger went over the history of the violation. He also requested that the 5 adjacent neighbors be notified.

Linda Gans came forward and stated that she had lived in town for 40 years and was not a rule breaker and felt that she had not done anything wrong. The contractor who did the work consisting of digging up stumps and regrading the site, never mentioned obtaining a permit. She also stated that her neighbor, Mr. Winton came over her wall to take pictures, twice, and then complained to the Town.

Friend and neighbor, Tom Aquila, read his letter into the record, and stated that he was not asked by anyone to come here tonight. He also submitted photos of the regrading. Mr. Aquila stated that he is a good friend of Mr. Winton (who is in Florida) and also Mrs. Gans and Mr. Winton is concerned about the condition of the road. It was stated later that the road was used for the heavy equipment to get to the property site and did not use Mrs. Gans' driveway. Mr. Winton is also angry because of the removal of the trees.

Don Saltzman asked how many trucks came in to dump soil? Mrs. Gans stated that no trucks came in to the site to dump soil. Stephan Grozinger stated that if this activity was minor regrading it could be waived but it is not a minor activity, as seen by the photographs submitted. Stephan Grozinger stated that the Commission can enforce fines and litigation.

Mrs. Gans stated that her house sits up very high and okay thru the rain storms. Jane Connolly stated that the Commission is concerned about the drainage onto other properties downhill from her property. Stephan Grozinger stated that the Commission does not have a before picture and three neighbors have expressed concern about drainage. A survey is required with an application for the before picture. We could then ask the applicant for an engineering study. The Commission felt that an engineering study could possibly cost up to \$5,000 plus and Mrs. Gans stated that she is not financially able to do it. Jane Connolly again stated to Mrs. Gans, that you are high up and water goes down and you need an engineering report.

Stephan Grozinger stated that we have a violation and complaints and will require you to restore the land to what the engineering study will show. Mrs. Gans again stated that she does not have thousands of dollars to pay for it. Stephan Grozinger stated that the Commission will give Mrs. Gans until February to bring in an engineering plan and the appeal period has passed for Zoning Board of Appeals.

**GANS CONT:**

Mr. Grozinger again stated for Mrs. Gans to get an engineering report to restore the property and refer this enforcement situation to the Town Attorney and compile and collect the fines, also to tell the First Selectman or vote to do nothing. The fee schedule would be \$100 per day for non willful and \$100 per day for willful and we are dealing with a time period of several months. Also to ask the Town Attorney what happens if she does not pay the fees? The answer was that it could eventually become a lien on her house.

Don Saltzman would like to declare a moratorium until the spring rains and check with the neighbors and that would be the end of it. Stephan Grozinger felt that could be an option. Jane Connolly felt also to wait and see if there any negative impact on these properties.

**MOTION:**

Chairman, Stephan Grozinger, moved that the Planning & Zoning Commission require that the homeowner present to the Commission an engineering report by a licensed engineer demonstrating there has been no detrimental effect to the rate and direction of the flow of water from the property and, if there has been a detrimental effect, a plan to restore the rate and direction of the water flow to the previous rate and direction. The plan shall be presented on or before March 1, 2011.

Seconded by Katie Gregory

Discussion:

Katie Gregory asked – have the fines stopped? Stephan Grozinger stated “no”  
Vote in favor (6-0) Joe Limone absent

At Mrs. Gans request – the motion was sent to her.

9 p.m. -David Allen and Jane Connolly left the meeting.

**DISCUSSION/DECISION: ENFORCEMENT REFERRAL FOR ZONING  
ENFORCEMENT OFFICER: COLEY, 59 LYONS PLAIN, REMOVAL OF SHIPPING  
CONTAINERS**

After receiving a number of complaints and sending a Notice of Violation, this activity has gone on for a very long time. The Town Attorney has been working with the Coley brothers and an executor has been appointed. Mr. Grozinger felt this activity needs to come to the full Commission now. Town Attorney has sent the Commission an update of her letter to the brother. The members then read the Town Attorney's letter.

Stephan Grozinger moved that the Commission would approve of taking no action and place this item back on the agenda for (Tuesday) January 18<sup>th</sup>, 2011. Seconded by Katie Gregory. Vote in favor (4) Jane Connolly, David Allen, Joe Limone absent.

DISCUSSION CONT: PROPOSED CHANGES TO SECTION 321.2(D)(6) OF THE ZONING REGULATIONS (OWNER OCCUPANCY REQUIRED FOR RESIDENCES WITH ACCESSORY APARTMENTS)

A history was given with two apartments eliminated and two remaining unchanged. Stephan Grozinger felt they needed the other Commissioners in place to discuss further and to place on the agenda for the next meeting on December 20, 2010.

ELECTIONS: CHAIRMAN AND VICE CHAIRMAN FOR 2011

Don Saltzman nominated Stephan Grozinger for Chairman and Jane Connolly for Vice Chairman.

Don Saltzman moved that the Commission elect Stephan Grozinger for Chairman for the Planning & Zoning Commission for the year 2011. Seconded by Ridge Young. Vote in favor (4) absent: David Allen, Jane Connolly and Joe Limone

Don Saltzman moved that the Commission elect Jane Connolly for Vice Chairman for the Planning & Zoning Commission for year 2011. Seconded by Katie Gregory. Vote in favor (4) absent: David Allen, Jane Connolly and Joe Limone

DISCUSSION: TOWN PLAN IMPLEMENTATION

Stephan Grozinger had nothing further to add and discussion followed re the bicycle paths committee. Katie Gregory is still to look into space in the schools for activities.

OTHER BUSINESS:

Don Saltzman requested to discuss Attorney Zizka's letter. Mr. Saltzman then further explained the history of the wording of the "stamp" and how it evolved. Also that it has no binding effect on the Commission.

Katie Gregory moved that the Commission approve discussing how we handle Gans and Coley fees and enforcement. Seconded by Ridge Young. Vote in favor (4-0) David Allen, Jane Connolly and Joe Limone absent.

OTHER BUSINESS CONT:

Discussion regarding clarification of whether we collect fees for the Gans enforcement issue and not collect fees for the Coley enforcement issue. Stephan Grozinger stated that fees are accrued until the situation is resolved. You then collect the fees and go to court or refer to a collection agency. Katie Gregory was concerned if both issues were being treated the same. Ms. Gregory also needed clarification on agenda voting and the number of members required for certain applications. Ms. Gregory also will commit herself to listen to the tapes for the missed meetings on the Public Hearing on Far Horizons.

Meeting adjourned.

Respectfully submitted.

Joan Lewis, Administrative Assistant

Approval: Unanimous approval on December 20, 2010. Don Saltzman and David Allen absent. Joe Limone absent from this meeting.