

Present: Don Saltzman, Chairman; Jane Connolly, Vice Chairman; Paul Heifetz, Dan Gilbert, Stephan Grozinger, Katie Gregory, Ridge Young

Meeting on tapes 1-4 dated 10/20/08

PUBLIC HEARING: SECTION 8-24 REFERRAL – FOOD PANTRY FACILITY ON TOWN PROPERTY

Don Saltzman read the legal notice into the record for the public hearing.

First Selectman Woody Bliss and Selectman Gayle Weinstein were present to answer questions about the Food Pantry facility. It was stated that this 8-24 Report was for the proposed placement of the Food Pantry facility on municipal property and if that is a good use of Town land.

Don Saltzman stated to the audience, that Planning & Zoning Commission issues a report to the Board of Selectmen, either way, positive or negative. If we do nothing for 30 days, it is an automatic positive report.

Don Saltzman asked the Selectmen present, if they wished to say anything before the public comment?

First Selectman Woody Bliss stated that you, the Commission, understand what we want to do. He stated that the Police Department (PBA), Carl Filsinger present, has stepped forward to be responsible for the Food Pantry. Betsy Peyreigne and Teri Gaberman will be the volunteers as before. The 12 x 20 foot structure will be in the area of the former Parks and Recreation trailer, near the Fire House. The purchase price of the structure will be paid by private donations from the community including the PBA, who will run the project and be responsible for utilities and maintenance. The Pantry will be gifted to the Town. The Pantry will only handle non-perishable food. The Health Department is on board and will have to complete their final inspection and do not foresee any problems. They will be monitoring the Pantry from time to time. The inside will be covered with vinyl walls with stainless steel shelving. The lighting is motion sensed and will be on from dusk to dawn. The cooling system in the Pantry will be minimal with climate control. There is a light near the front door and the outside cameras in the area can be re-directed so it is very visible from the Emergency Center. The unit will be off the ground and the space underneath will be covered with lattice work. Also the Pantry will be handicap accessible for both the front door and the side double door.

Selectman Gayle Weinstein felt it was not only appropriate on Town land, but as a community, a way to help our own residents. The Selectmen spoke to all the churches in Town and no one would accept it. She feels it should be on Town land and concerned about the safety and privacy factors. This location fits those concerns. She considers this an appropriate use of Town property.

PUBLIC HEARING: FOOD PANTRY 8-24 CONTINUED:

PUBLIC COMMENT:

Lucy Boden of Stonehenge Drive, felt that Selectman Weinstein has said it all. We need the Pantry and felt it was a great location.

Charlene Hilman, Director of Social Services, stated that she now has a list of 90 households in financial need is showing a big change from last year and felt the pantry is definitely needed. Don Saltzman questioned – can volunteers and all the organizations supply enough food? Betsy Peyrienge stated that they will have to conduct more food drives for keeping it full but we have never had a problem, once we put the word out. Betsy Peyrienge also stated that if we have a surplus, we will trade food with another town. Teri Gaberman stated it was not publicized and the Pantry is really only for Weston. Carl Filsinger, stated that the PBA feels it is an appropriate use and is really behind it.

Jim Shaper of Merry Lane stated that he is very excited to see this happen and thinks it is a fabulous location and the new building is an absolute slam dunk.

Paul Heifetz asked about the building and it was stated that it is free standing and sits on pressure treated wood. Don Saltzman asked if the location meets the setback. Dan Gilbert stated that it is 40 feet and basically that is where the Parks and Recreation trailer was.

Dan Gilbert moved that the Commission approve closing the public hearing. Seconded by Paul Heifetz. Vote in favor 7-0.

Don Saltzman stated that the Commission will make a decision later in the meeting.

Dan Gilbert felt that the Commission should act right now and the draft motion was submitted to the members.

Jane Connolly moved that the Commission act on the recommendation of the 8-24 Report right now. Seconded by Ridge Young.

Discussion: Stephan Grozinger felt that we approve the 8-24 Report for now. However it is required for the Town to come in with a Special Permit. Dan Gilbert felt that the Commission could discuss this issue later.

Vote in favor (7-0)

FOOD PANTRY 8-24 REPORT CONT:

DISCUSSION:

Dan Gilbert went over the history of the zoning exemption and stated that for thirty years municipal projects did not come to the Commission for approval under the Regulations and this Commission has taken the position that building projects are not exempted from the zoning regulations. If the Commission does not push back on the exemption, it's actions would be illegal. Paul Heifetz doesn't feel the Town was ever exempt. Dan Gilbert went over the history of this request to the Selectmen. The Town Attorney has never responded on this issue. Dan Gilbert stated he will take all this information and give it to the two new Commission members, Ridge Young and Katie Gregory to bring them up to speed and also he will contact Attorney S. Byrne for an expert opinion. Mr. Gilbert stated he will also find out the cost of such an opinion. Katie Gregory asked if it is just an expert opinion or a legal opinion that was needed?

Jane Connolly questioned the whereabouts of the letter from the Town Attorney on his opinion and why it was not available. Tom Landry had stated it was a letter. Don Saltzman feels this letter does not exist and Dan Gilbert felt that Don Saltzman could write a letter to the Board of Selectmen requesting a copy of this letter. Paul Heifetz stated that if there is no letter, we can formally ask the Town Attorney for an opinion. Katie Gregory questioned if this would be separate from the 8-24 Report on the Food Pantry? Stephan Grozinger requested that the Town obtain a zoning permit and a building permit. If the Town comes to the Zoning Officer, they will then come to Planning & Zoning.

Stephan Grozinger asked how would the Commission pay for Dan Gilbert's request to send the paper work to Stephen Byrne for an opinion. Also we would need the Selectmen's approval for the money. Dan Gilbert stated he would write a letter to Stephen Byrne and Stephan Grozinger will write a letter to the Board of Selectmen.

PUBLIC HEARING: APPLICATION PURSUANT TO 7/7/08 LETTER TO ZONING ENFORCEMENT OFFICER: ZONING PERMIT, AUTOMOBILE REPAIR FACILITY, 107 GEORGETOWN ROAD (WESTON 1, LLC/HALLORAN& SAGE LLP)

Attorney Larry Weisman came forward with an application regarding the automobile repair facility at 107 Georgetown Road and stated that Weston 1 owned the property at Midtown. It was noted that Katie Gregory and Ridge Young were not sitting on the Commission at the time of the first application.

Don Saltzman read the legal notice for the public hearing into the record.

PUBLIC HEARING: AUTOMOBILE REPAIR FACILITY CONT:

Attorney Weisman stated that the definition of a pre-existing non-conforming use is important. The greater burden on the Commission is to show that the property has been abandoned. He stated that he has spent a considerable amount of time on the background of this application. The repair facility operation which has been ceased for more than 6 months, included some repairs and some gas sales. The gas tanks have been taken out of the ground. He also referred to Nancy Dillon surrendering her license when she went thru the remediation. Attorney Weisman submitted a letter from Nancy Dillon – exhibit (1) sworn affidavit.

Attorney Weisman then went over the Planning & Zoning denial drafted by Stephan Grozinger, containing 5 reasons for the denial and commented on each reason including referencing some case law. Attorney Weisman gave a copy of his remarks to each member and a copy of this document, dated 10/17/08 is in the file.

Discussion by the members to include the following:

The land has a house on it and Mr. Boujailais bought it and wanted to create a country market. He was told to apply for a special permit. It turns out he was an agent for Mr. Lenhart (now owner). Attorney Weisman stated that a repair facility was stated in the real estate listing. Nancy Dillon wanted to continue the use. Attorney Weisman felt it was never her intent to abandon use. Paul Heifetz – do we have updated information as to what the property would be listed for? Attorney Weisman stated "auto repair facility". Attorney Weisman stated that he would accept a condition that would limit the number of cars parked outside the building. Attorney Weisman stated it would not be a storage place for cars, a concern of Paul Heifetz's. Don Saltzman asked if there was a statement that Nancy Dillon was forced to give up her license by the DEP? Attorney Weisman stated that Nancy Dillon had to give up her license with a consent order by the DEP. Jane Connolly requested to see the consent order. Attorney Weisman stated he would get a copy of it. Katie Gregory asked if the clean up was done before Nancy Dillon could sell? Attorney Weisman stated yes. Nancy Dillon did not get her license back before the sale. Mr. Lenhart (present and the present owner) stated that the remediation is done. Dan Gilbert requested the date of the sale from Dillon to Lenhart. Attorney Weisman stated he would get the deed. Mr. Lenhart bought the property and finished the cleanup and therefor Nancy Dillon could not get her license back because the remediation was not completed. Nancy Dillon dissolved the company a month after she sold the site.

Attorney Sullivan (present) stated the case was held back three times for reconsideration by the court, which is highly unusual and they won the case on the third time. By changing the Zoning regulations, the point is now moot.

PUBLIC HEARING – AUTOMOBILE REPAIR FACILITY

PUBLIC HEARING COMMENTS:

Michael Nelson of 16 Samuelson Road and representing about 10 of the neighbors, stated that he does not wish for the project to go forward. The facts are not the same and the people are just not there anymore. The gentleman who was there on the property was just towing cars in and out and then taking them to his place in Norwalk. It would be a disaster, a physical nightmare and the place is a wreck. The neighbors remain upset and the property is horrible. He also referred to the political atmosphere and the enforcement issue. The pile is so deep, there is no enforcement. His greatest wish is to dissolve it on a legal level.

Don Saltzman stated that a special permit still has to be applied for. Dan Gilbert stated that the Commission needs to figure out if the use was abandoned. Jane Connolly stated that Attorney Weisman brought the previous file forward and added some new items. The public can review the box in the Planning & Zoning office in the annex.

Mr. Roberts of 2 Samuelson, whose property is adjacent to the site in question, has a lot of concerns about the wetlands and that some more testing should be done, even though it has been re-mediated. He has children and does not want his well to be contaminated. He also requested a copy of the memo written by Attorney Weisman dated 10/17/08. Also questioned, was Nancy Dillon licensed to run a gas station? Also there is still a forklift and backhoe in the back yard.

Mr. Nelson asked how long can a property be abandoned? Don Saltzman stated these were legal questions and we will research. Dan Gilbert – stated that it is a non- conforming use – was that abandoned? Can't set a time limit, the owner has to intentionally abandon. Jane Connolly stated that there are a lot of facts that we have to look at. Now we need to look at the owner's intent.

John Albright of 3 Glenwood, encouraged the Commission to look into what the owner had to do to give up her license or what she could have done. Don Saltzman – we have to do our own investigation and find real intent regarding the license.

Adele Cokins – Samuelson Road – stated her concern if this goes through as a repair shop? What recourse do I have if it is awful and who can I complain to? It was stated for her to contact the lawyer of the aggrieved party and what we approve and also call the Town's Zoning Officer, Jim Pjura.

The continuation of the public hearing will be December 1, 2008 and Attorney Weisman will submit an extension letter for the needed time.

Stephan Grozinger asked that James Pjura, Zoning Officer to check Section 321.g is being complied too.

RECEIPT OF APPLICATION FOR RESUBDIVISION – LEVITAN – 35 INDIAN VALLEY ROAD (ATTORNEY MARK RUBENSTEIN)

John Albright of Rubenstein & Glazer LLC, representing Attorney Mark Rubenstein, was present for receipt of the application for a re-subdivision for Mr. Levitan, located at 35 Indian Valley Road. He gave the history of this property as follows: There was a 12 lot subdivision done in 1974 on Indian Valley Road. In the late 1980's the developer sold Lots 10, 11 and 12 to Michael Greenberg. He indicated the location of those lots on the map. A year later Michael Greenberg bought a parcel of land from Samuelson and at the same time, bought a parcel from the Nature Conservancy and sold, as part of that transaction, the old "Old Lot 10" to the Nature Conservancy plus an extra piece. Mr. Greenberg then filed Map 2309, entitled "Map Showing Change of Lot Lines" with no permission and he just filed it on the Land Records. On Map 2751 there was a driveway existing across Mr. Levitan's property. In 1981, right after Mr. Greenberg bought the various pieces, he sold to John Gregory, Parcel D (part of what he got from the Conservancy) and Parcel B, which totaled 14.6 acres. At the same time he transferred the parcel to the Conservancy and two months later sold to a party named McClean, a 4 acre parcel, including access-way, made of part of what was originally Lot 12 and an additional piece which was part of the original Samuelson piece. Fifteen years later, McClean sold to Mr. Walpuck, Jr. and Mr. Walpuck immediately transferred into an LLC called Lockwood, Sterling & Betts, subsequently it got transferred back to Mr. Walpuck, and he financed the property and a day later transferred back into Lockwood, Sterling & Betts. He felt that the Commission needs to know who the owner is. In 1995, John Gregory sold Parcel D and Parcel B to Mr. Levitan. When Mr. Greenberg originally sold to McClean in 1981, he sold it subject to a right of way in favor of himself across that accessway for a right of way and an easement including installation of underground utilities. Mr. Levitan's lot consists of 14.6 acres and feels it is a legal lot and Mr. Albright's application is requesting the Commission to approve the application.

Robert Turner was also present and gave history of the property.

Paul Heifetz moved that the Commission receive the application for a public hearing for the Levitan resubdivision on Indian Valley Road at the next meeting. Seconded by Jane Connolly. Vote in favor (7-0).

Mr. Albright stated that the property is staked for a site walk before the next meeting and he would happy to guide any of the Commission members on a walk.

RECEIPT OF APPLICATION PURSUANT TO 7/7/08 LETTER TO ZONING ENFORCEMENT OFFICER: ZONING PERMIT – LUNCH BOX STORAGE AREA, 190 WESTON ROAD (DANTE ZACAVISH)

Dante Zacavish presented his application for a zoning permit to repair the Lunch Box Storage Area.

LUNCH BOX STORAGE AREA CONT:

Dan Gilbert asked for a letter of authorization from the owner of the Center. Mr. Zacavish submitted the authorization letter from the owner and also the health approval for his project which included a list of health requirements. Mr. Zacavish stated that he would like to complete the project by the end of the year.

After a discussion, the Commission noted that the Zoning Permit, requested, would be issued to Weston Center and not Mr. Zacavish. He agreed, as he is just an agent. The storage area is part of the original footprint of the building.

Mr. Zacavish stated that the storage area is completely open now and he would repair it and install new doors which had been ripped off. The footprint would remain the same.

Paul Heifetz moved that the Commission receive the application for a request of a Zoning Permit for repair of a storage area for the Lunch Box at Weston Center at a public hearing on November 17th, 2008.

Dan Gilbert seconded.

Discussion: Stephan Grozinger asked if this storage area was included in the parking calculations done by Attorney Sandy Campbell for the Center's previous application and also questioned if storage for a pharmacy is okay for storage for the Lunch Box, a restaurant.

Vote in favor (7-0)

The Commission members will walk the site before the next meeting.

EXECUTIVE SESSION: TOWN ATTORNEY-DISCUSSION RE: LITIGATION, CN BUILDERS AND NIEWENHOUS V. PLANNING & ZONING COMMISSION

Don Saltzman moved that the Commission go into Executive Session. Seconded by Paul Heifetz. Vote in favor (7-0)

Don Saltzman moved that the Commission go out of Executive Session. Seconded by Paul Heifetz. Vote in favor (7-0).

There was no motion taken.

Meeting adjourned. Respectfully submitted. Joan Lewis Administrative Assistant
Approval: Unanimous on 12/1/08.