

Present: Don Saltzman, Chairman; Jane Connolly, Vice Chairman; Paul Heifetz, Dan Gilbert, Stephan Grozinger, Katie Gregory, Ridge Young, and also the Land Use Director

Meeting on tapes 1-6 dated 11/17/08

EXECUTIVE SESSION: LITIGATION – CN BUILDERS & CHARLES V. NIEWENHOUS v. PLANNING & ZONING COMMISSION

Don Saltzman moved that the Commission go into Executive Session. Seconded by Stephan Grozinger. Vote in favor (6-0) Ridge Young late to the meeting.

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Don Saltzman stated that there was no action taken.

DISCUSSION: UPDATE OF TOWN ZONING EXEMPTION

The Land Use Director stated that there is no letter yet and it is due on November 20<sup>th</sup> and then it will be forwarded to the Commission members. Dan Gilbert reported to the Commission on a response letter he received from Steven Byrne in answer to his letter. Mr. Byrne stated that the Commission makes the decision to go to court regarding zoning and does not have to go the Board of Selectmen. Paul Heifetz stated that the Commission needs to go to the Board of Finance for the funds. A discussion followed regarding not seeing any drafts of the letter from the Town Attorney to the Board of Selectmen.

ZONING REGULATIONS – ADDING ZERO INCREMENTAL RUNOFF REGULATION

Dan Gilbert gave the Commission members a draft of a proposed Zoning Regulation for Zero Incremental Runoff for discussion. Katie Gregory commented on the words “modification of land” and questioned what that included – topography, taking down trees or grading? A discussion followed and the members felt that the draft needed to be more specific to accomplish the zero incremental runoff. Dan Gilbert referred to the NEMO letter/article on “How Do We Manage Runoff Water”, also and a past issue of Weston Water Resources Guide from the early 90’s and also the Dominiski Oak Rock Report from 1976. Jane Connolly suggested taking out the words “modification of land” and perhaps making the clearing of trees a separate regulation. Paul Heifetz stated his concern that everyone would have to hire a professional engineer. Stephan Grozinger felt that the proposed regulation should be made tighter.

Dan Gilbert suggested that the Commission members study the draft regulations and their changes and address it at the next meeting.

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

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

In the absence of Dante Zacavish, tenant of the Lunch Box, Josh Tolk of Rand Realty representing the Weston Shopping Center, was present. It was Mr. Tolk's understanding that the Lunch Box was interested in renting some additional space in back of the Shopping Center behind the pharmacy which requires municipal permitting.

The Commissioners had walked the site before this meeting. Dan Gilbert measured the proposed building consisting of a roof and sides with the tenant proposing doors and finishing off the inside, and felt that the measurements did not meet what was on the submitted plan. Don Saltzman stated that the storage area behind the pharmacy was part of the original footprint. The empty space no longer is used by the pharmacy. He also stated that the definition of a building is any structure having a roof supported by columns or by walls, and intended for the shelter, housing, or enclosure of persons, animals or chattel.

Mr. Tolk stated that the tenant of the Lunch Box has health approval for renting that building for a storage area. The Health Department has stated specific conditions that need to be followed. Copy of this approval is in the file.

Don Saltzman stated that the tenant of the Lunch Box applied for a zoning permit to do a modification to the building. Planning & Zoning prepared a letter to the Zoning Officer that all commercial work has to be approved by the Planning & Zoning Commission.

Stephan Grozinger referred to Section 322.8 amended in May 31, 2007, requires a "Plan of Development" be submitted with the application so that additional parking requirements can be looked at. He felt that it was potentially an intensity of a non-conformity.

Mr. Tolk stated that there is no interior access to this building storage area and no increase to the net increase of the Lunch Box. Katie Gregory questioned if the square footage of the storage area had always been included in the building square footage? Mr. Tolk stated yes.

Dan Gilbert stated that the Health Department has requested that the "rubber maid" containers will disappear. He also questioned the size of the storage area shown on the plan. Mr. Tolk clarified the storage area. Don Saltzman showed the existing roof line. Stephan Grozinger felt the tenant was running the roof with a fenced in area into a storage area. Don Saltzman considered it storage for storage. Stephan Grozinger stated that the Commission really needs to look at the parking spaces. Jane Connolly felt that storage is storage. Stephan Grozinger questioned comparing restaurant storage to restaurant use. Jane Connolly responded by reading a definition of floor area. Dan

PUBLIC HEARING: LUNCH BOX CONT:

Gilbert went over requirements such as not adding to the footprint, has health approval and not adding any parking spaces in the Shopping Center. Paul Heifetz asked if there will be a rental fee for that storage space – will be heated or cooled? Mr. Tolk stated yes to both questions and that the Health approval is requiring some heat and ventilation. Mr. Tolk was asked to supply a new drawing showing this building area storage for the Lunch Box and all the parking spaces.

Don Saltzman asked if the Commission feels if additional parking, could Mr. Tolk come up with additional parking spaces?

Public Comment: none

Dan Gilbert suggested to Mr. Tolk not to do the map until the Commission determines the additional parking spaces that are needed. Stephan Grozinger stated that it is required with the application as stated in the Zoning Regulations.

To be on the agenda for the next meeting.

PUBLIC HEARING CONT: ACTIVITY IN A FLOOD PLAIN, KONHEIM, 52 VALLEY FORGE ROAD NEW HOUSE (LAND TECH)

Peter Romano of Land Tech stated that the requests of the Commission regarding the activity in the flood plain, for the new house, have been satisfied and approved by the Town Engineer's memo of November 17, 2008. Land Tech completed the analysis of the excess flood storage capacity foot print of the new house vs. the old house. The new construction activity is only in the flood plain. The Town Engineer has also requested that the wording "not for construction" be removed from the plans submitted and Mr. Romano agreed to do that by signing off on a set of plans deleting the wording.

Don Saltzman requested verification from Land Tech that the house will not float down the river. Mr. Romano explained how the house foundation is anchored and meets all the flood plain requirements. The applicant also stated that the Building Department will get a full set of construction drawings. The applicant does not plan to start construction until Spring of 2009.

The Land Use Director raised the question of the applicant talking to the Zoning Officer regarding the height of the new house. The applicant agreed.

Dan Gilbert asked for clarification of the calculations in the file and Mr. Romano went over in detail with Mr. Gilbert.

PUBLIC HEARING CONT: ACTIVITY IN A FLOOD PLAIN, KONHEIM, 52 VALLEY FORGE ROAD, NEW HOUSE (LAND TECH)

The Land Use Director handed out a draft approval to the members for their consideration. After a discussion, it was decided to insert the approval in the minutes.

Don Saltzman moved that the Commission close the public hearing. Seconded by Stephan Grozinger. Vote in favor (7-0)

Don Saltzman moved that the Commission insert the approval of the application, into the minutes, of this meeting, for the Konheim Flood Plain Activity at 52 Valley Forge Road for a new house. Seconded by Stephan Grozinger. Vote in favor (7-0).

PUBLIC HEARING CONT: MODIFICATION TO A SUBDIVISION – LEVITAN – 35 INDIAN VALLEY ROAD (ATTORNEY JOHN ALBRIGHT)

Both Attorney Albright and Attorney Rubinstein were present. Attorney Rubinstein read and submitted a group of deeds for each parcel and the history of the lots being sold to show a chain of title, to show that his client, Dan Levitan, has clear title to his property and is not aware of any claim to the 14.90 acres owned by Dan Levitan. Also Attorney Rubenstein could not find any reference to lot line change wordage in the Zoning and Subdivision Regulations and went back to 1970.

Katie Gregory asked for clarification of the lots as to their changes. Attorney Albright noted that nothing was decreased at all. Paul Heifetz requested a copy of the Conservation easements. Attorney Rubenstein stated that they are in the deeds. It was then requested that this application come to the Commission as a modification.

Dan Gilbert went over the basic requirements for a lot and it met all the criteria and that it does not impede access to any of the property owners. Also this lot would not require a site approval or zero incremental requirements. Stephan Grozinger felt that it conforms to all the Regulations.

Public Comment:

Robert Walpuck submitted paper work for the file to ascertain if Dan Levitan has clear title. Attorney Rubenstein yes, Mr. Levitan has clear title. Mr. Walpuck also stated that Mr. Levitan also only has Conservation Commission approval for the wetland crossing across the brook. The rest of the driveway is within the 100 foot regulated area; therefore, Mr. Levitan would have to go back to the Conservation Commission. Also the original subdivision approval shows where the road is going across the wetlands. Mr.

PUBLIC HEARING: LEVITAN CONT:

Walpuck then went over in detail, the papers he submitted to the file, on his view of this application. This included letter of the Zoning Officer, Glenn Major & George Guidera Attorneys. He also stated that he feels that Mr. Levitan does not have a clear title for this property.

Attorney Rubenstein went over the map submitted and explained, in detail, title to title to show that Mr. Levitan does have clear title. He also explained that each of these deeds are Warranty Deeds. He did not have any idea what Mr. Walpuck was talking about. The maps were filed on the Land Records and no legal action has been filed. Attorney Rubenstein has a title search that goes back 60 years.

Dan Gilbert stated that he would like to get the maps of these lots and check the metes and bounds against the deeds.

Katie Gregory asked Attorney Rubenstein – what type of application are you coming forward with – a modification or a re-subdivision? Attorney Albright felt it might be a modification. Stephan Grozinger felt it should be a request for a zoning compliance. Attorney Albright felt the application should be a modification of a subdivision and go for the zoning compliance. Jane Connolly suggested that the applicant withdraw, without prejudice, and come back for the zoning compliance.

Don Saltzman stated that it is “your” choice for the applicant. Attorney Rubenstein really favored a modification, as this lot is larger than before and felt it was the proper technical way to do it. Mr. Saltzman asked if there was any more testimony the applicant wish to give? Stephan Grozinger stated that there are three owners and modification changes the one parcel. The two other parcels have been intermingled and he had a trouble with that. Mr. Grozinger would like to modify the entire subdivision and do not have the consent of the neighbors to do that. Mr. Walpuck’s lot has a building permit and a certificate of occupancy, so it is a conforming lot. Attorney Rubenstein could get consent from the Nature Conservancy Paul Heifetz felt the applicant just needs permission from the Nature Conservancy and to make a decision. The Levitan parcel does not affect Mr. Walpuck’s property.

Don Saltzman asked for a consensus of the members and Dan Gilbert would like to take a look at the paper work that has been submitted.

The Commission requested a letter of extension. Also a new legal notice was prepared stating that the applicant is requesting a modification of subdivision and/or request for an issuance of zoning compliance.

The public hearing is to be continued to December 1 with a new legal notice to be published and the neighbors notified.

OTHER BUSINESS:

Stephan Grozinger moved that the Commission approve Tracy Kulikowski, Land Use Director, to be the Temporary Zoning Enforcement Officer, until James Pjura, Zoning Enforcement Officer returns from vacation. Vacation dates are November 24, 25 and 26. Seconded by Dan Gilbert. Vote in favor (7-0).

CRITERIA TO EVALUATE CANDIDATES FOR SWRPA REPRESENTATIVE

Dan Gilbert has been looking for a candidate for the SWRPA representative from the Planning & Zoning Commission and talked to Margaret Wirtenberg and the name of Tom Failla was suggested. Dan Gilbert in turn, spoke to Tom Failla and he stated he would be interested. The next step would be to have the Commission appoint him.

Katie Gregory had, in a previous meeting, requested that an ad be run in the Weston Forum, to advertise for this position. After a discussion, the Commission asked Katie Gregory to compose the ad and place it in the Weston Forum with a deadline of December 8<sup>th</sup>.

Katie Gregory moved that the Planning & Zoning Commission approve advertising in the Weston Forum for the position of being a Planning & Zoning representative to SWRPA with applications due in by December 8. Seconded by Stephan Grozinger. Vote in favor (7-0).

Meeting adjourned.

Respectfully submitted.

Joan Lewis, Administrative Assistant

Approval: Unanimous approval on 12/1/08