

SPECIAL MEETING

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

PUBLIC HEARING: 8-24 REPORT: VALLEY FORGE ROAD BRIDGE REPLACEMENT (TOWN OF WESTON)

The Chairman read the legal notice into the record for the public hearing.

Present for this application: First Selectman Woody Bliss, Selectmen Gayle Weinstein and Glenn Major. Tom Landry, Town Administrator, Town Engineer John Conte, Robert Turner former Zoning Officer, Seth Miller, abutting neighbor.

First Selectman Wood Bliss submitted the requested A2 survey to the Commission and explained in detail, the property that belongs to the Town and not the Aquarion Water Company. Also explained Seth Miller's driveway and that the activity is all on Town property.

Stephan Grozinger questioned the status of the Miller driveway and did it cross Town land because of an easement on Town property? It was noted that the driveway ordinance allows certain provisions. It is essentially a public road into Town property with no easement. A discussion followed.

Stephan Grozinger expressed his concerned on what the Selectmen have given the Commission, is an A2 survey right of way survey rather than an A2 property survey. The right of way survey did not depict adjacent properties. An A2 right of way survey only certifies as to the accuracy of the roadbed, whereas an A2 property survey shows easements, restrictions, and property boundaries.

Peter Iffland, Surveyor, hired by the Town and present, created the Right of Way survey. He stated that it is a Right of Way survey, it meets the A2 and concerned about the content. It does show the right of way of the road and nothing else. If it triggered an encroachment, it would show.

A discussion followed regarding the Chairman's expectations.

Mr. Iffland stated he was not obligated to show easements because it was not what we were asked to do.

Ran McNeil stated that the surveyor indicated that there is a road in the area that goes north and west to a town called Valley Forge. State of Connecticut's agreement with Bridgeport Hydraulic was that the Bridgeport Hydraulic Company would subsidize this road to connect with Route 53. Filed in Volume 3, page 395 of the Land Records for the

Town of Weston. A discussion ensued. Mr. McNeil also stated that the property, a 20 acre parcel to the south of the existing bridge was to be for passive recreation only. It is recorded on the land records and involves the Devil's Den area. Mr. McNeil continued on with other historical points.

Selectman Glenn Major reported that the Town Attorney had given an opinion on this 20 acre space. Peter Iffland, Surveyor, was not familiar with this document.

Stephan Grozinger questioned "does any of this new roadway go onto this piece of property now. Ran McNeil stated "no" The property for the bridge is south of the existing bridge and would encroach on the 20 acres owned by the Town.

Stephan Grozinger stated that the Commission does not have an A2 property survey and it does not address adjacent land owners. The Commission has a road survey.

Attorney George Guidera present for another application advised to follow all the legalistics of this project.

Stephan Grozinger addressed the First Selectman and Selectman Gayle Weinstein questioning if Planning & Zoning can put a restriction like this on an 8-24 Report. Mr. Bliss did not believe that the Planning & Zoning Commission has the authority and should just say yes or no.

Don Saltzman referred to a timetable for the grant money. He stated that all the State offices have approved the bridge. The last part is the Planning & Zoning 8-24 Report. We can issue recommendations but not conditions. If the Commission gives a positive report and it is recorded that all legal hurdles be addressed by the Town and satisfied. We have a 27 day window to get the State government to sign off on a loan. The restrictions would be that everything has to be cleared up.

Paul Heifetz q questioned "would it be up to the Town Counsel to deal with the illegalities?"

Katie Gregory questioned if the Commission is comfortable with the A2 presented?

Stephan Grozinger stated that the A2 should be the existing roadway and proposed roadway. This A2 just shows the existing roadway. There is no showing the proposed roadway and any land it travels over and any legal issues that might result.

Public Comment: Amy Chadwick of Oak Lane stated her concern about conducting an archeological Native American tribal review, study, survey and consultation of Native American and Indian artifacts and ancient ties to tribes. She believes that this is according to Section 106 "national historic preservation act". She finally stated that the Town should leave the bridge where it is and fix it.

Don Saltzman stated, just for the record, that the cell tower in the land fill had an Indian expert and the Town is aware that it is something that has to be done.

A resident stated his concern about the safety of the road and should the bridge be shut down? The response was that it was not at the shut down stage. Town Engineer John Conte stated that he has been taking core samples since 1997 and that is why we are at this point now to replace the bridge for these reasons. He stated that the inspections have gone from good, to fair to poor. Mr. Conte went over what he has been doing over the past years inspecting the bridge.

Paul Heifetz question if bridge construction would start in May of 2010?

Seth Miller, owner of the property with the driveway affected, was pleased to have the survey and being that it was a public hearing, was able to ask questions.

Robert Turner thought the A2 of the property included the bridge. It does not however, show the Town property line. The Commission needs to know where the new bridge is going to be in relationship to property line of the Aquarion Water Company property and the property line of the Town property and do not have a map that shows that. The Commission would then know if the Aquarion Water company is involved or not.

Don Saltzman questioned the schedule for construction. Tom Landry, Town Administrator stated that the project has not gone out to bid yet and that will determine the schedule; probably about April or May, 2010 for the demolition. First Selectman Woody Bliss stated that the critical date now is August 26, 2009.

Stephan Grozinger, speaking to the surveyor, asked "could an A2 survey on the road bed and the entire 20 acres be created in time"? It was stated that it would take 21 days and the Town has 20 days. A discussion ensued.

Ran McNeil suggested that the Commission request title searches on three surrounding parcels. A discussion continued to clarify exactly who would be notified.

Stephan Grozinger stated to do a title search of those properties. Selectman Major felt that current owners would show deed restrictions.

Discussion followed of the Commission members.

Don Saltzman stated that he wished the Commission to expedite this 8-24 Report as soon as possible. If the Commission votes affirmative with recommendations that are applicable, usually are not binding, but in this case it is an obligation.

Paul Heifetz felt the Commission should approve passing the suitability of Town land. Our purview is to say if it is proper, with construction being done properly. He was in favor for an approval tonight.

Ridge Young agreed with Paul Heifetz.

John Connolly felt that the proper use of Town land seems to have been clouded and is also learning a lot about A2 surveys. She also understands that the bridge needs to be fixed and the Commission needs to get moving. She felt the Commission should go ahead provided all these discussed items are cleaned up.

Stephan Grozinger felt it is unfortunate we are in this position with the A2 survey. We have what we have and have hammered it out to be in a good position. He felt the Commission should approve this proposal subject to a condition that the Board of Selectmen obtain the title searches on the neighboring property; which should be very quick and inexpensive

Katie Gregory stated her concern about the property lines not being exact.

Don Saltzman started a discussion of what is a condition vs. a recommendation.

Don Saltzman moved that the Commission close the public hearing. Seconded by Paul Heifetz. Vote in favor (6-0) Dan Gilbert absent.

After public comment and back and forth discussions, the Commission ultimately voted to give the project a positive review.

MOTION

Paul Heifetz moved that the Planning & Zoning Commission has reviewed the Board of Selectmen's application, dated August 3, 2009, and accompanying materials related to the replacement of the Valley Forge Road Bridge over the Saugatuck River, road safety improvements along the approach roadways, and related storm drainage improvements, and finds as follows:

The proposal is approved provided that the Board of Selectmen cause to be performed a title search for each property affected by the project and shall direct the Town Attorney to review the title search and resolve any discrepancies revealed by the title search.

Seconded by Jane Connolly. Vote in favor (6-0) Dan Gilbert absent.

PUBLIC CONT: SCHINDEL SUBDIVISION, 6 LOTS, MORTON SCHINDEL, ET ALS. 389 NEWTOWN TURNPIKE (GUIDERA)

Attorney George Guidera and Morton Schindel were present.

The Land Use Director stated that there was a miscalculation in the counting of days for the subdivision timeline by herself and Joan Lewis and Mr. Schindel was on the agenda for this evening to close the public hearing instead of September 8th.

Attorney Guidera went over several documents in detail, to be submitted to the file. These included "Grant of Conservation Restriction and Agreement of Responsibilities; Indemnity". The purpose of all this was to get the Schindel subdivision up to code and not setting a precedent for any future subdivisions.

Two other memos were discussed. One from the Town Engineer, dated July 31, 2009, as follows:

"the engineer has provided the drainage analysis for the above referenced subdivision as I requested in my report to your commission referring to item number 9 of that report, dated May 18, 2009.

I have reviewed the report and find the analysis and recommendations concerning proposed post development on site drainage containment satisfactory to this office"

The second memo is from Fire Chief John Pokorny, dated July 30, 2009, as follows:

I have completed a plan review of the Weston Woods subdivision (plans dated 6/24/09) and find that the access proposed for emergency service vehicles is acceptable.

It is my understanding that residential sprinklers will be installed in all new construction in the subdivision.

I would recommend that a dry hydrant be installed in the pond on the West side of Weston Woods Road across from lots 3 and 4 to protect the Subdivision during the construction phase of the project. This hydrant would also allow the Fire Department adequate water supply for existing buildings on the property that may not require sprinklers. Generally insurance companies will give a discount to properties within 1000' of a dry hydrant."

Don Saltzman suggested the installation of a 30,000 gallon underground tank for water storage. A discussion of sprinklers followed and felt it would be done if a museum permit was submitted and approved.

Also noted that there is a drainage report and bond estimate for the road, in the file.

PUBLIC HEARING CONT: SCHINDEL SUB. CONT:

Jane Connolly moved to close the public hearing for the Schindel Subdivision. Vote in favor (6-0) Dan Gilbert absent.

To be on the agenda for September 8th for a discussion/decision.

RECEIPT OF APPLICATION FLOOD ZONE DEVELOPMENT PERMIT, POOL, 4 OLD REDDING ROAD (LIEBOW)

The owner, Mr. Liebow was present to submit an application for activity in a flood zone for a pool at 4 Old Redding Road. He has been the owner for four years. He stated that a permit had been issued by Conservation in 2005 before he bought the house and that permit is about to expire. In addition to the pool there will be some patio work, a deck, pergola and steps. Also stated that the Aspetuck River floodway is in front of the house And the proposed pool would be 120 feet from this.

Don Saltzman asked if the engineer had checked all the flood plain requirements and the response was that the engineer is working on that.

Mr. Liebow and Fred Anderson, Conservation Planner, have talked to FEMA and FEMA stated they had no concerns.

The Land Use Director reported that Mr. Liebow was also before the Conservation meeting tonight and the members of that commission will walk the property.

Stephan Grozinger moved that the Commission receive the flood zone development permit for a proposed pool at 4 Old Redding Road. Seconded by Ridge Young. Vote in favor (6-0) Dan Gilbert absent.

The Land Use Director requested an extension of one day to allow the public hearing to start on September 8th, a Tuesday instead of Monday, September 7, due to the Labor Day holiday. Mr. Liebow granted that extension.

DISCUSSION ENFORCEMENT: 4 GOODHILL ROAD, CHILDREN'S HEALTH SERVICES LLC – ADVERTISEMENT IN THE WESTON FORUM

Dr. Lieberman was present. Stephan Grozinger stated that at Commissioner Paul Heifetz's request, this item was put on the agenda. Paul Heifetz stated that the Commission issued a cease and desist in early 2009. The Commission had a discussion with Dr. Lieberman and granted a waiver to the cease and desist given to Dr. Lieberman until the end of the year, to work out his affairs. He noted in the Weston Forum on July 23, 2009 an advertisement by Dr. Lieberman, stating the addition of two new doctors. He felt this was in gross violation of the Zoning Regulations.

DR. LIEBERMAN CONT:

Mr. Heifetz felt it is a flagrant violation of the regulations with relation to the number of employees and the waiver letter should be rescinded and a new cease and desist order should be issued. He explained that the Commission was trying to revise the home occupation.

Katie Gregory gave a brief history of the doctor's office and explained that many patients are still there and Dr. Lieberman trying to serve his patients well until the end of the year.

Jane Connolly read the ad with two doctors coming on board by August 1, 2009. Ridge Young felt the Commission never gave any restrictions to Dr. Lieberman.

Don Saltzman asked Dr. Lieberman if these were the same two doctors that previously left the practice. The answer was no.

Dr. Lieberman stated that in order to have the public know who is working for you, the easiest way is to put an ad in the paper. He also stated he would like to inform the Commission that he has never been issued a cease and desist and but would be given time to December 31st if he did not comply. He just received a letter from the Zoning Officer.

Dr. Lieberman explained why Drs. Gorman and Cohen left the practice as they did not want to live in the house. He did not see why the Town does not want a pediatric office. Also stated on what you have done to me is very damaging to my practice. He would like to stay for two more years and you are making it difficult. He stated that he has lost 50% of my patients and not getting new patients and trying very hard to conform to what you are requesting.

Paul Heifetz referred again to the Zoning Regulations. Dr. Lieberman questioned Mr. Heifetz and his wife's business of the Weston Forum having more than two employees in the past. A discussion followed.

Stephan Grozinger stated the Commission wants to allow you to do what you want to do and we intend to bring in other people who are in violation. You are not being singled out and very sympathetic with your situation and I think the Commission has been fair and we are obligated to enforce the zoning regulations.

Dr. Lieberman stated that I have until December 31st to conform and to threaten me now is completely unfair. I have not added two doctors because some are gone.

Don Saltzman stated that this is very unfortunate and the Commission is between a rock and a hard place. It is beyond question that nobody wants to put a doctor out of business, but the Commission had to uphold the regulations. I hope you are working towards legalizing the situation and make the whole situation disappear. A discussion followed.

DR. LIEBERMAN CONT:

Dr. Lieberman stated that he would love to have this practice to continue after I am gone but no way can it continue with just two employees.

POSSIBLE EXECUTIVE SESSION. POTENTIAL LITIGATION, ASPETUCK VALLEY COUNTRY CLUB

Stephan Grozinger felt that there was no reason to go into Executive Session. He then stated that on July 20, 2009, the Commission approved the Aspetuck Valley country Club Special for a pool and other facilities. The Section 336 of the Zoning regulations for special permit site states one year to complete the project. Attorney Fallon, for the Club, stated that the project cannot be completed in one year.

Jane Connolly felt that the Club could come back to the Commission in one year and the Commission possibly give an extension. A discussion followed.

Don Saltzman felt it cannot be changed now as it is the regulation. The Club could apply now for a modification to a special permit – outline the hardship and get a quicker timetable.

Stephan Grozinger agreed and feels the Club will sue the Commission and anticipate that in the next few days.

Stephan Grozinger prepared an amendment draft of Section 337 which is an extension of time for the special permit and capture the Club and other special permits that are missing dates due to tough economic times. A discussion followed.

The amendment draft that Stephan Grozinger presented is as follows:

PROPOSED ZONING REGULATION AMENDMENT – EXPIRATION OF SPECIAL PERMIT.

336. Expiration of Special Permit (AMENDED). A special permit shall be deemed to authorize only the particular use or uses specified in the permit. A special permit shall expire if (i) said use or uses is intentionally abandoned or is changed to another use, or (ii) all required improvements are not completed as of the date which is five years following the date of issuance of the special permit, or such shorter or longer period as determined by the Commission and set forth in the conditions of approval. The Commission may extend any expiration date upon application by the permittee.

337. Extension of Certain Special Permits (NEW). Notwithstanding the terms of Section 336 or any condition of approval to the contrary, special permits granted between

AMENDMENT CONT:

December 1, 2007 and September 2009 shall not expire for failure to complete required improvements, unless a required improvement remains substantially incomplete as of the date which is five years following the date of issuance of the special permit.

Existing Regulation, page 20, Zoning Regulations of the Town of Weston (4/16/09)
336 Expiration of Special Permit

A special permit shall be deemed to authorize only the particular use or uses specified in the permit. It shall expire if said use or uses shall cease for more than one year for any reason, or if all required improvements are not completed within one year from date of issue, or if all such required improvements are not maintained and all conditions and standards complied with throughout the duration of the use.

The Land Use Director stated that the amendment will be sent to SWRPA and 35 days for an opinion. The public hearing would be on 9/21/09. Also Stephan Grozinger will send a letter along with the public notice to explain the situation to all of the residents noticed for all recent special permits.

MOTION:

Don Saltzman moved that the Commission approve sending the draft amendment revision to special permit regulations to the Town Attorney for a possible boiler plate and legal approval. Seconded by Paul Heifetz. Vote in favor Don Saltzman, Paul Heifetz, Jane Connolly and Stephan Grozinger. Not in favor Katie Gregory and Ridge Young Dan Gilbert absent.

Meeting adjourned.

Respectfully submitted.

Joan Lewis, Administrative Assistant

Approval