

Present: Stephan Grozinger, Chairman; Don Saltzman, Paul Heifetz, Dan Gilbert, Katie Gregory.(Jane Connolly and Ridge Young absent).(J. Connolly on speaker phone for part of meeting)

Meeting on tapes 1-5 dated 12/15/08

The newly elected chairman, Stephan Grozinger opened the meeting by thanking Don Saltzman for his many years of service to the Planning & Zoning Commission.

CHAIRMAN'S REPORT:

Stephen Grozinger stated that he believes that the Commission can have a solid understanding to commitment and the zoning regulations with an emphasis on accountability and transparency and to show that we have a paper trail. He met with Tracy Kulikowski and Joan Lewis and also with Jim Pjura and Robert Turner. He will be keeping a "chron file" for everyone located in the Planning & Zoning Office. Also that when Jim Pjura and Bob Turner speak with the Town Attorney, so as to have a better understanding of exactly what the advice is given, they will write a memo for the "chron file". The memo of July 24, 2006 tells how the Commission wants them to do enforcement. Also met with the Town Attorney. Stephan Grozinger stated he also would also like to do a performance review for Robert Turner in six weeks as his contract is up on June 30th, 2009, as a consultant. He also met with Jim Pjura and Bob Turner regarding an old application at 275 Godfrey which was approved and went over it to check it again. Also reminded them that an A2 survey is needed regarding the stone wall over the property line. The Zoning Certificate is worded to certify the only thing that the application is for and need to look further. Also discussed Section 312.1 and Section 313 on fences which was to replace and will discuss that later. This would be a proposed action for the future. Stephan Grozinger also met with First Selectman Woody Bliss and Tom Landry, Town Administrator, for a general overview of procedures.

Don Saltzman referred to the budget review. Tracy Kulikowski, Land Use Director stated that she will do that on January 6, 2009. Also Don Saltzman felt the Commission should ask Attorney George Guidera, Peter Romano, to write a letter for ideas on how to improve our procedures and feel it will bring strong comments on special permits and the fences regulation.. He also referred to conversations with the Town Attorney, where we ask for advice. He felt that this is a private communication and not public information, referred to it as attorney client privilege.

DISCUSSION CONT: UPDATE OF THE TOWN ZONING EXEMPTION

Dan Gilbert referred to Town Attorney's letter documenting Ken Bernhard's position on the Town Zoning Exemption and how it refers to the Town Charter in relation to the legislative powers vs. legislative body. A discussion followed.

It was noted in Attorney Bernhard's memo, that he feels the charter is clear, that the Town Meeting's legislative power is clearly defined. All other legislative power resides with the Board of Selectmen. Also that the language in the Town charter and State statute are the same. Don Saltzman felt that if there are questions, send them in and have your researcher look at those points and draft answers to the questions. Paul Heifetz felt the real essence, is in the four questions that we asked. The issues are who is the legislator and is it the Board of Selectmen? He also stated that he is not sure if Attorney Bernhard is correct. Don Saltzman stated that this issue is before FOI when you could vote in Executive Session. There is a letter from Town Attorney Ed Rimer to the Board of Selectmen during Guidera's time as First Selectmen regarding this issue. Stephan Grozinger had some real follow up questions and Dan Gilbert will write them up.

ZONING REGULATIONS – ADDING ZERO INCREMENTAL RUNOFF REGULATION

This agenda item was deferred to the end of the meeting.

DISCUSSION: APPOINTMENT OF SWRPA REPRESENTATIVE

The Land Use Director stated that she had received a resume from Tom Failla, in response to the ad in the Weston Forum. It was stated that this was the only response.

Katie Gregory moved that the Commission appoint Tom Failla to represent the Planning & Zoning Commission to SWRPA. Seconded by Dan Gilbert. Vote in favor (5-0) Jane Connolly and Ridge Young absent.

The Land Use Director stated that she will inform SWRPA by letter and also noted that the present representative, Dan Wilder, will resign on January 6, 2009. She will also call Dan Wilder. SWRPA will meet on January 5, 2009.

Chairman Stephan Grozinger recused himself for the following two agenda items as he is a member of the Weston Fire Department. He appointed Katie Gregory to handle the receipts of the Fire Department applications.

RECEIPT OF APPLICATION: SPECIAL PERMIT – WESTON VOLUNTEER FIRE DEPARTMENT, INC. (GUIDERA)

Attorney Guidera presented an application for the Weston Volunteer Fire Department to demolish the existing fire house and to build a new fire house located on the west side of Lyons Plain Road, approximately ¼ mile north of Cartbridge Road. A letter, reviewing the flood plain, dated December 15, 2008 from Mr. Dufel, Vice President of Stearns & Wheler, was entered into the file.

The Commission discussed conducting an independent walk before a public hearing on January 5, 2009.

RECEIPT OF APPLICATION: ACTIVITY IN A FLOOD PLAIN FIRE DEPARTMENT CONT:

Attorney Guidera stated that his client has received Conservation approval and also a number of ZBA variances. The health approval is in and waiting for acceptance. It is endorsed and will be formally approved when the easement is approved. Attorney Guidera stated that the easement document is in the file. The site and the septic area is staked and ready for a site walk by the Commission.

Don Saltzman asked the applicant if they have a parking plan for emergencies for parking for the fire fighters? Attorney Guidera stated yes and there was a discussion of another possible curb cut for the parking area. Also that a variance was granted for the parking.

The Commission decided to conduct an independent site walk before the public hearing on January 5th, 2008.

Don Saltzman moved that the Commission receive the application for a special permit for the Weston Volunteer Fire Department to demolish the existing fire house and to build a new fire house on the west side of Lyons Plain Road, approximately ¼ mile north of Cartbridge Road. Seconded by Dan Gilbert. Vote in favor (4-0) Stephan Grozinger recused. Jane Connolly and Ridge Young absent.

RECEIPT OF APPLICATION: ACTIVITY IN FLOOD PLAIN – WESTON VOLUNTEER FIRE DEPT. INC.

Attorney George Guidera presented an application for the Weston Volunteer Fire Department for an activity in a flood plain for a boulder retainer wall extension. Attorney Guidera read a letter for the file, from Stearns & Wheler, dated December 15, 2008, stating that they felt this application was unnecessary, as the activity is not in a flood plain. The Commission stated that they would address this in the public hearing to be

FIRE DEPT. ACTIVITY IN FLOOD PLAIN CONT:

held on January 5, 2009. Attorney Guidera stated that if this activity is not in the flood plain, his client will withdraw the application.

Don Saltzman moved that the Commission receive the application for an activity in a flood plain for an extension of the boulder retainer wall. Seconded by Dan Gilbert. Vote in favor (4-0) Stephan Grozinger recused. Jane Connolly and Ridge Young absent.

Katie Gregory referred to Article 4 of the Flood Plain regulations to be adhered to. Paul Heifetz had concerns and Attorney George Guidera offered to bring in an engineer.

The Commission will conduct an independent walk before the next meeting on January 5, 2009.

RECEIPT OF APPLICATION: RESUBDIVISION, FASH, 27 ROGUES RIDGE
(ATTORNEY BLOOM)

Attorney Ira Bloom presented an application resubdivision approval on behalf of Victoria Fash, stating that the applicant seeks to validate a subdivision which both the applicant and the Town have believed existed for many years. The applicant has owned Lot Nos. 8A and 9A on Map No. 2778, which map is dated August 1982... Ms. Fash purchased Lot No. 8A in 1993 and Lot No. 9A in 1994. The deeds of conveyance to Ms. Fash for both properties were presented, as well as additional proof of ownership. The Town of Weston has acknowledged that the subject property has existed as two separate lots. As evidence, The Town has assessed the subject property as two separate lots. Submitted for the file were the Tax Assessor's field cards and map. An earlier filed map No. 761, also shows Lot nos. 8A and 9A with a different lot line dividing them. Map No. 761 predates Weston subdivision regulations. Since Map No. 761 demonstrates that the two lots existed prior to the Weston subdivision regulations, a later adjustment of the lot lines does not meet the statutory definition of a "resubdivision".

The applicant is only now seeking this approval in response to a letter she received from the Weston Zoning Office in which she was informed that she now needed resubdivision approval for these two lots shown on Map No. 2778, which the Town has consistently assessed and listed for many years as two separate lots. The recent letter was prompted by a document that was presented to the Zoning Office by two individuals who engaged in litigation against the application (Mr. Walpuck and Mr. McNeil). These individuals discovered a Warranty Deed that was recorded on November 25, 1959 in the Weston Land Records at Volume 55 and Page 94. In that Warranty Deed, Gerald Muscott and Betty Muscott conveyed to Howard Fromson and Antoinette Fromson a parcel containing 0.86 acres which was a portion of one of the lots shown on the previously referenced

FASH CONT:

Map no. 761. No map exists on file showing this conveyance.

Although it is questionable given the statutory definition of resubdivision whether the requested approval is even necessary, the applicant has nevertheless decided to seek resubdivision approval (although she reserves the right to take the position that no resubdivision approval is necessary. The lots shown on Map no. 2778 have existed in this configuration for over 25 years and they comply with the subdivision regulations.

Please note that in the unrelated lawsuit filed against the applicant, the above referenced individuals claim to own a portion of the subject property.

Stephan Grozinger asked Attorney Bloom if he felt the applicant would like to add to request, a permit of zoning compliance? Don Saltzman felt this should be discussed in the public hearing. Attorney Bloom stated that the Town Attorney had suggested that the applicant do it in this manner. The Land Use Director stated that there is a claim of a first cut that makes this application different.

Don Saltzman moved that the Commission receive the application for a resubdivision for Fash at 27 Rogues Ridge. Seconded by Paul Heifetz. Vote in favor (5-0) Jane Connolly and Ridge Young absent.

A public hearing will be held on January 5, 2009.

PUBLIC HEARING CONT: 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 L. Weisman was present and had no further information to add except to clarify some questions from the Commission from the last meeting. He stated that the owner does intend to continue renting the apartment to a gentleman who is a limo driver and the limo is his car. Secondly, in answer to the question, if this property could be used for a house and the answer is no because of the location on the road and the traffic. Also, what else could it be used for?

Don Saltzman stated his concern about the residence being located on top of a building (gas station). It is still in a residential zone and no reason why that building might have to give you a permit for a whole building being a residence. It is a pre-existing non conforming residential lot.

THE LAND USE DIRECTOR CALLED COMMISSIONER JANE CONNOLLY ON THE SPEAKER PHONE.

AUTOMOBILE REPAIR CONT:

Don Saltzman referred to the previous discussion regarding Nancy Dillon's license/permit and also selling the property. A discussion followed.

Dan Gilbert showed a copy of the Real Estate ad used for advertising the sale of Midtown Garage which stated it as a repair facility. Attorney Weisman stated that his client bought it as a vehicle repair shop with that expectation. A discussion followed about pumping gas and repair under one license? Attorney Weisman stated that he was not aware of different parts of licenses. He also stated that zoning deals go with the use of the land and has nothing to do with what we are talking about here.

Paul Heifetz questioned the distinction made when a repair's license covers pumping of gas? Don Saltzman felt the Commission should not close the public hearing and go into a debate. Stephan Grozinger suggested talking about the vote to close the public hearing. The Land Use Director stated that the application timing is into the extension period and would need a letter of extension from the applicant. Attorney Weisman stated that the applicant wants to close the public hearing. He felt the best way to hold some discussion would be creating some conditions that would make it palatable to the neighbors such as lighting and screening. Attorney Weisman also stated that the Commission needs to decide, as this decision will go to court one way or the other.

PUBLIC COMMENT:

Dean Roberts of 2 Samuelson Road submitted a Department of Transportation engineering map and storm drainage map of the area.

M. Nelson of Samuelson Road referred to the compliance issue and the opportunity to make a great decision. It is clear from all that petitions that the vast majority of the comments – please don't do this. As you cannot have a house and getting in and out on the road - how can you do it with a repair station facility. Stop this from happening. Don Saltzman felt the wish list does not apply to the State law.

Tom McNamara referred to Mr. Wilde information that Nancy Dillon was not required to give up her license - She made it lapse – like she forgot to renew it. It was her responsibility to renew that license (use of word of lapse) and why she did this is the question. The new owner bought the property to make a profit.

David Webber of Samuelson Road – referred to the real estate listing and read the bottom wording and noted that realtors sometimes take a lot of poetic license.

Another resident of Samuelson Road asked the Commission if there was a legal definition of abandonment? Dan Gilbert read from the statute definition of abandonment.

AUTO FACILITY CONT:

Joe Culnick of Samuelson Road – This application has already been to court and now you are reconsidering this is a written document that has the arguments that add these issues. A very grey area in the law, to decide this when it has already been decided.

Stephan Grozinger stated that the dead line of 15 days for an appeal was missed by the applicant on the first application.

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

PUBLIC HEARING CONT: PETITION FOR ZONING AMENDMENTS, SECTION 321.2 ACCESSORY BUILDING (ATTORNEY KORDAS)

Attorney Kordas was present and stated that in answer to Jane Connolly question – this petition is clearly not spot zoning. Jane Connolly felt that this petition is for one special person. Attorney Kordas did not draft it for one person and not really meant for the Crown family.

Don Saltzman stated that two acre zoning is what the Town needs. The regulations are for one family on one lot and the apartment cannot be more than 800 square feet. When you present an outbuilding on four acres, you almost have to attach it to the main dwelling. He felt that the Commission is going against Town development. To ask for a regulation change of this magnitude is wild. If you came to ZBA, how could you demonstrate a hardship. Mr. Saltzman stated that he could not support this request.

Attorney Kordas felt the option is to subdivide and you are forcing someone to do this. Paul Heifetz referred to the regulations on outbuildings.

Attorney Kordas felt it could be for another usage like a garage.

Dan Gilbert felt it is not so much the regulation but more to do with the Town Plan. He read from the Town Plan under the residential part and also read from the Zoning Regulations and it would be a serious mistake to approve this application. One dwelling on one lot regardless who it is. Mr. Gilbert felt this subject is for the Town Plan and listening to the public.

Stephan Grozinger felt the Commission is a long way from a regulation for this request and by looking to the Town Plan, noted that the demographics of Weston is changing.

Mr. Siska of 2 Briar Oak stated that he was responsible for presenting this application to the Commission and referred to it being connected to the main house and what that entail.

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

DISCUSSION/DECISION: MODIFICATION OF SUBDIVISION AND/OR REQUEST FOR ISSUANCE OF A CERTIFICATE OF ZONING COMPLIANCE – LEVITAN – 35 INDIAN VALLEY ROAD (ATTORNEYS RUBENSTEIN & ALBRIGHT)

Don Saltzman felt the application should be approved with conditions authorizing to issue a certificate of zoning compliance. One is for modification of subdivision and the other for zoning compliance. A discussion followed. Stephan Grozinger read a definition of a subdivision and a resubdivision. Katie Gregory stated that this is a zoning application and the subdivision is gone and only dealing with the Levitan's, 14 plus acres piece.

Stephan Grozinger submitted and read his draft. After a discussion a motion was made to approve.

Don Saltzman moved that the Commission approve the denial of a subdivision and approve the applicant's request for a certificate of zoning compliance for Levitan, Indian Valley Road. Seconded by Stephan Grozinger. Vote in favor (5-0) Jane Connolly and Ridge Young absent.

ZONING REGULATIONS – ADDING ZERO INCREMENTAL RUNOFF REGULATION

Dan Gilbert presented a draft regulation for zero incremental runoff to the Commission for discussion. They went over it in detail and made the following motion:

Dan Gilbert moved that the Commission send a copy of this proposed regulation for zero incremental runoff to the Town Attorney and SWRPA for their consideration and also to hold a public hearing on January 26th or February 2nd. Seconded by Stephan Grozinger. Vote in favor (5-0) Jane Connolly and Ridge Young absent.

APPROVAL OF MINUTES:

Katie Gregory moved that the Commission approve, with corrections by Dan Gilbert, the minutes of December 1, 2008. Seconded by Paul Heifetz. Vote in favor (5-0) Jane Connolly and Ridge Young absent.

ELECTIONS:

Paul Heifetz nominated Jane Connolly to be Vice Chairman of the Planning & Zoning Commission. Seconded by Stephan Grozinger. Vote in favor (5-0) Jane Connolly and Ridge Young absent.

Meeting adjourned.

Respectfully submitted. Joan Lewis, Administrative Assistant Approval: Unanimous
2/23/09 Jane Connolly and Ridge Young absent.