

Present: Stephan Grozinger, Chairman; Jane Connolly, Vice Chairman; Don Saltzman, Katie Gregory, Ridge Young, David Allen Also Tracy Kulikowski, Land Use Director
Absent: Joe Limone

Meeting on tapes 1-5, dated 2/1/10

TOWN PLAN – Reviewed a draft of the Town Plan.

APPROVAL OF MINUTES:

Don Saltzman moved that the Commission approve the minutes of January 19th, 2010 with correction. Seconded by Jane Connolly. Vote in favor (6-0) Joe Limone absent.

CHAIRMAN’S REPORT

No report

RECEIPT OF APPLICATION: ACTIVITY IN A FLOOD ZONE – SHED, 82 NEWTOWN TURNPIKE, KOPULOS-VALITUTTO (WARDELL EST.) (CHAPPA-PAOLINI P.E.)

Phil Paolini, P. E. presented an application for an activity in a Flood Zone for a substantial renovation of a shed, located at 82 Newtown Turnpike. Mr. Paolini went over a detailed plan with the members of the Commission, showing that the activity is in the flood fringe and not in the floodway. The applicant has approval from the Conservation Commission. The Chairman referred to the Flood Plain Regulations and requested architectural drawings to show the shed and the applicant plans to make the shed flood proof and weather tight. He also requested that the flood elevation, which is at 164 ft. in front of the bridge, be certified in writing by an engineer and that the footprint is not changing. Mr. Paolini, P. E. stated that he could do that. Also stated that the electric now comes in from overhead and the shed will not be a livable space, it is just for storage. It was stated that the renovation of the shed includes a new roof, repair the floor and new siding.

Katie Gregory moved that the Commission receive the application for an activity in a flood zone, for renovation of a shed, located at 82 Newtown Turnpike. Seconded by Jane Connolly. Vote in favor (6-0) Joe Limone absent.

The public hearing will be scheduled for the March 1 meeting.

PUBLIC HEARING CONT: SPECIAL PERMIT MUSEUM. SECTION 341.2
WESTON ZONING REGULATIONS, LOT 6 OF WESTON WOODS SUBDIVISION,
389 NEWTOWN TURNPIKE, MORTON SCHINDEL, TRUSTEE (GUIDERA)

Present were Morton Schindel, Dorothy Curran and George Guidera, Attorney. Attorney Guidera stated that Weston Woods did receive two variances from the Zoning Board of Appeals on January 26, 2010 - Variance to Section 341.2c of the Zoning Regulations to allow existing building to remain 99 feet from the front line setback and a Variance to Section 341.2E to allow existing dwelling use in an existing dwelling.

Attorney Guidera then presented a plan with the additions that the Commission had requested – the 100 foot setback line, parking spaces, building coverage of 3.38% including the residence and under the 10%. None of the museum buildings are over thirty feet in height, including the residence. The museum building is 24 feet high and the residence is 25 feet at its highest point. The setbacks of the parking are okay and stated that the tennis court has an extra entrance which will be removed for more spaces. There will now be one entrance and one exit. The parking spaces meets the nine foot width and also the back up turning radius and could easily include the buses in these spaces. The road is 10 feet in width and a fire truck can access.

Don Saltzman questioned separating the museum road from the residential subdivision road with the same exit access down by Newtown Turnpike. Also how is the other subdivision road going to be operated serving 7 lots according to the subdivision standards?

Stephan Grozinger questioned the presence of a fire pond? Attorney Guidera stated that there is a pond on Lot 6 and will be made available for a dry hydrant. Mr. Schindel stated that there is an existing 15,000 gallon swimming pool on site, which is full year round.

Don Saltzman suggested three possible conditions of approval. 1. no parking for the museum on the subdivision road, 2. entrance to the subdivision or museum should be widened and paved up to the specifications of 40 feet and 3. appropriate handicap parking for the museum. Attorney Guidera did not like widening the 10 feet wide road to the museum.

Katie Gregory stated her concern about traffic flow especially for the residential lots. Attorney Guidera felt it could be done with directional signs. Mr. Saltzman also suggested putting the conditions for the road in the deeds. Attorney Guidera has stated that the application has met the regulations. However, he has not addressed the “buffer” with the 50 foot setback line shown on the plan. A lot of it has the Conservation area and the regulations call for evergreens. The members were okay with the buffering after their site walk.

PUBLIC HEARING CONT: MUSEUM - SCHINDEL

The Chairman then addressed the safety issues from Section 332.1 of the Zoning Regulations point by point. Discussed Section 332.6 and a discussion followed to include checking in with the Health Department and the Fire Marshal and meeting the current fire code and building code. The Chairman asked Mr. Schindel if they were in compliance and he stated that ten years ago they installed fire extinguishers and has been in touch with the Fire Marshal. Attorney Guidera stated that they will have to put in a fire alarm system. The Chairman stated that the applicant will have to meet what ever fire code is required by the Fire Marshal.

Don Saltzman stated another condition that no food or restaurant unless they use an outside caterer. The Chairman asked if there was a garbage dumpster on the property? Ms. Curran replied –only for construction or renovation. Attorney Guidera felt the applicant did not need one. It was also stated that the Town Engineer has requested that the parking spaces be striped. Ms. Curran stated that they want to change as little as possible because it is a historic site.

Public Comment: None

The Commission decided to continue the public hearing to March 1, so that Attorney Guidera could present additional information and will submit a letter of extension in order to meet the March 1, date.

The Chairman requested Attorney Guidera to get letters from the Town Engineer, and the Fire Marshal, the Health District and the Building Inspector.

Sense of the meeting was unanimously in favor.

DISCUSSION CONTINUED – UPDATE: ORDER OF REMOVAL DATED 9/11/09, 11 BLUEBERRY HILL – INGROUND POOL FROM THE SETBACK (GUIDERA)

Stephan Grozinger recused himself. Jane Connolly, Vice Chairman ran this portion of the meeting.

Attorney Guidera stated that the Jacoby's of 11 Blueberry Hill application to Zoning Board of Appeals had been denied. A discussion followed to state that the discussion would be postponed until March 1, 2010 so that the applicant could be present. Ms. Connolly referenced the case of Wright vs ZBA – Mansfield, dated 5/11/1998, Case 6108, Connecticut Supreme Court, where it states that a swimming pool is a structure.

Don Saltzman moved that the Commission approve carrying over this discussion to the March 1, 2010, with no penalties for enforcement. Seconded by Ridge Young. Vote in favor (5-0) Joe Limone absent

DISCUSSION/DECISION: SUBDIVISION TIME EXTENSION – BARCELLO
SUBDIVISION, AUTUMN RIDGE ASSOCIATES, LLC, 9-11 HILL CREST LANE
(PATRIOT NATIONAL BANK)

Scott Harrington, Attorney, was present, representing Patriot National Bank, to request a 5 year extension to the Barcello Subdivision, for 9-11 Hill Crest Lane, 2 lots they have from a foreclosure action (Pinpat Acquisition Corp.). The subdivision exists of 5 lots which includes two existing homes, one newly owned constructed home accessing from Hill Crest Lane and two existing lots which access off a subdivision access way which has not been completed. The decision approval for the subdivision is dated July 18th, 2005 and the mylar was filed on October 11, 2005 and the date of 5 years goes forward from that date, meaning the original 5 years will be up in 2010. Attorney Harrington is requesting a second 5 year extension.

Attorney Harrington stated that Patriot Bank was the first mortgage lender for the foreclosure sale in August 6, 2009 and recorded lots 2 and 5 in September 21, 2009.

It was stated that the Town Engineer has been requested to estimate the work to be completed. The Fire Marshal stated that the fire protection water tank is installed but has not been tested. Letters confirming status have been requested of the Fire Marshal and the Town Engineer.

The Chairman stated he would like to a site walk of the property.

To be on the agenda for the next meeting, February 16th.

DISCUSSION/DECISION: REQUEST FOR RELEASE OF SUBDIVISION BOND
MONEY – BARCELLO/AUTUMN RIDGE ASSOCIATES LLC SUBDIVISION, HILL
CREST LANE (T. BARCELLO)

Tom Barcello submitted a letter requesting the release of the remaining bond money for the Barcello/Autumn Ridge Associates LLC Subdivision. The Chairman read the letter into the record, as follows:

“ I am formally requesting the release of the Lot Development (Subdivision) bond money for the Hillcrest Lane property formally owned by Autumn Ridge Associates, LLC. Town Records indicate that the remaining balance of the bond is \$46,562.50. An initial Cash Bond of \$104,362.50 was personally put in place by myself and is being held by the Town of Weston. This bond was a substitute for the then current bond of the then current landowners Risa Horelick and Elizabeth Sedgwick. The funds need to be replaced by the new owner of record, as Autumn Ridge Associates, LLC nor myself are an owner of the land.”

DISCUSSION/DECISION RELEASE OF BOND MONEY - BARCELLO

It was stated that when the mortgage and title were transferred to the Pinpat Acquisition Corporation, there was no mention of a bond. A discussion followed which included that the Town of Weston could call the bond and pay to make the improvements.

Don Saltzman felt that this is a severe legal situation and that the Commission should refer it to the Town Attorney for advice.

Don Saltzman moved that the Commission approve waiting for the letters from the Town Engineer and the Fire Marshal to be submitted to the Town Attorney with copies to the Commission. Seconded by Jane Connolly. Vote in favor (6) Joe Limone absent.

To be on the agenda for the February 16th meeting.

DISCUSSION: LETTER DATED 12/22/2009, FROM ATTORNEY RUBIN REGARDING CN BUILDERS, INC. & CHARLES NIEWENHOUS, (COLLECTIVELY CN) TREADWELL LANE LOT

Present were Attorney Glenn Major, representing Jeffrey & Rosalind Shaffer and Attorney Robert Rubin representing Charles Niewenhaus. Also present were Jeffrey & Rosalind Shaffer, neighbor Lisa Lewis and Liam King, Builder.

Attorney Rubin referred to his letter of 12/22/09 which is attached. Also attached is a copy of the variance approval, dated May 26, 2006.

A discussion followed regarding the hardship in topography for the Shaffers, the width, the cuts and elevations of the proposed access and trying to obtain a waiver for Section 314 of the Zoning Regulations, for 3 houses on this access way instead of the existing two. Also the procedure to follow to correct this situation with a modified stipulated judgment and send the decision back to the court. Discussion followed.

Attorneys Major and Rubin were requested to create some language for this procedure to present at the next meeting on February 16th.

Sense of the meeting:

Katie Gregory stated that she will probably abstain.

Other members felt that the Commission could approve a modification to the stipulated judgment between Charles Niewenhaus and the Town of Weston, that the subdivision and travel path could allow three owners, wherein, to use the thirty foot right of way.

Attorneys Rubin and Major will write a statement, to be approved by the Town Attorney and then present it to the Commission at the next meeting on the February 16th.

Attorney Larry Weisman was present for Dr. G. Lieberman and stated that the Zoning Officer had issued a cease and desist for December 31, 2009 for Dr. Lieberman to cease his medical office operation at 4 Goodhill Road. Dr. Lieberman then went to Zoning Board of Appeals for a variance for the number of employees (6) working in the medical office. Dr. Lieberman was denied by the Zoning Board of Appeals.

Attorney Weisman talked to Dr. Lieberman, in Colorado, and advised him to throw in the towel. Dr. Lieberman, through Attorney Weisman, requested the Commission to give him an extension until March 1st in order to close down the operation and transfer files and go over employee contracts and to not work there any more. Dr. Lieberman would terminate his practice and the building will revert to a residence. A discussion followed.

Don Saltzman felt the Commission should request an email from Dr. Lieberman stating that the practice is closed and the Commission will waive the fees. The fees are now at \$7,500 and by March 1, they will be \$15,000. The fee is \$250 per day from January 1 to March 1, 2010. A discussion followed.

The sense of the meeting: Stephan Grozinger felt that if Dr. Lieberman closes his office and transfers all the files by March 1, 2010, then the Commission will not collect the fees. Stephan Grozinger asked Attorney Weisman what assurance can you offer the Commission? Jane Connolly requested to know exactly what Dr. Lieberman's plans would be? Attorney Weisman stated that he will email Dr. Lieberman in Colorado and get the information requested. A discussion followed regarding the Zoning Officer to make an inspection of the premises on March 2, 2010 to see that it has been cleaned out. If it has not been cleaned out, the Commission will talk to the Town Attorney to enforce the fees.

Attorney Weisman felt that Dr. Lieberman has one more option and that is to go back to the Zoning Board of Appeals and he has a window to file an appeal to the Zoning Board of Appeals.

Stephan Grozinger moved that the Commission approve that the Zoning Enforcement Officer inspect 4 Goodhill Road, on March 1st, 2010, and if he is unable to inspect or determines the practice has not been permanently closed and all files removed, the Chairman is authorized to direct the Town Attorney to commence an action to enforce the cease and desist and collect any fines and all fees accrued and thereafter accruing. If the office has been permanently closed and the files removed, we will forebear any collection of the fines and the fines will be waived. Seconded by Don Saltzman. Vote in favor (5-1) Ridge Young nay and Joe Limone absent.

Meeting adjourned.

Respectfully submitted.

Joan Lewis, Administrative Assistant

Approval: Unanimous approval by 3 members present. Young, Saltzman, Grozinger, – Limone absent from this meeting. Gregory, Connolly absent from this meeting

