

D R A F T MINUTES

PLANNING & ZONING MINUTES FOR MARCH 16, 2009

PAGE 09-28

Present: Stephan Grozinger, Chairman; Jane Connolly, Vice Chairman; Don Saltzman, Paul Heifetz, Dan Gilbert, Katie Gregory, Ridge Young
Meeting on tapes 1-5 dated e/16/09

The Planning & Zoning Meeting scheduled for March 2nd, 2009 was snowed out.

CHAIRMAN'S REPORT: Stephan Grozinger submitted a document entitled "Definition of Subdivision – Reference Materials" to each member. The document consisted of case studies which were listed in order of importance. Mr. Grozinger requested the members to read the document and be ready to discuss at the next meeting.

Mr. Grozinger also discussed a visit to the Zoning Department in the Town of Fairfield and has set up a tentative time of 9:30 a.m. on Friday, April 3rd. He stated that there were 5 members interested in this visit. They would also look for application forms that would be helpful.

Mr. Grozinger read a memo from his meeting with the Zoning Enforcement Officer regarding Weston Gardens. A discussion followed with the request from the Commission that before writing a letter/memo like this that he should send a draft out for comment by the Commission members.

DISCUSSION: CN BUILDERS & CHARLES V. NIEWENHOUS V. PLANNING & ZONING COMMISSION (ATTORNEY RUBIN)

Stephan Grozinger recused himself because of client conflict with Attorney Rubin.

Attorney Rubin felt he had submitted all the information that was needed except the certification of the lot size on the mylar. He also had had no response from Town Attorney Pat Sullivan. The Schaeffer resolution was put in place and the approval would be continued in the future for the Schaeffer driveway and C. Niewenhaus would have to revolve that. The next step would bring it together in the form of a resolution and add a signature line. It was suggested then to air the resolution in a public meeting where people could comment on it. The Commission felt it would be worked out with the Town Attorney Pat Sullivan as she created the original proposal. Also the Commission would need to inform the State of a settlement. A discussion followed regarding a draft stipulation including the letter of November 6, 2008 and the map is ready for the engineer's signature. The restrictions will run with the land. A discussion followed on having a public airing and not a public hearing. Attorney Rubin can make the presentation as the Commission is the client and Attorney Sullivan is our lawyer. Don Saltzman did not feel the public needed to be a part of this and it could be just the Commission and Attorney Rubin. The Commission asked what is the minimum legal requirement and can we extend it? Attorney Rubin felt you could. If the Commission invites the public, I think it only benefits us. Discussion followed. To be on the agenda again for a discussion. The Commission requested that next time to please have the map. Attorney Rubin will have Attorney Sullivan review what Attorney Rubin has submitted.

RECEIPT OF APPLICATION: FLOODZONE ACTIVITY – ERNST, 204 LYONS
PLAINS ROAD, REPAIR STONE WALL AND CREATE STEPS (WM. KENNY
ASSOCIATES)

Bill Kenny of William Kenny Associates, presented an application for an activity in a flood zone for Mr. and Mrs. Ernst of 204 Lyons Plains Road, to repair a stone wall and create steps. The repair is for a 30 foot section of the existing wall along the river. The applicant has received approval from the Conservation Commission. There will be no impact and perhaps a slight decrease. Mr. Kenny stated that he has a certified letter and explained the construction plan of the proposed steps and that the steps will be incorporated into the wall.

Stephan Grozinger requested certification that any construction would be zero increase in the flood level in a 100 year flood.

A letter in the file dated January 13, 2009 regarding certification of no impact is as follows: “In accordance with Town of Weston Flood Plain Management Regulations, we do hereby certify that we have examined the work proposed at the site and have confirmed that there will be no increase in base flood levels within the community during the base flood event (100 year event). The proposed work is generally shown on plans provided by Rivi Oren Landscapes, drawings L-1 through L-4, dated November 24, 2008. Our analysis is contained in a drainage study prepared by us dated January 7, 2009.

Furthermore, all proposed construction shall be in accordance with FEMA standard specifications for temporary and permanent activity and construction within a flood plain and shall not adversely impact the floodplain and floodway on adjacent properties. If you have any questions regarding this certification, please do not hesitate to contact me. Signed Chris DeAngelis, PE – Civil Design Associates LLC”

Don Saltzman moved that the Commission receive the application for activity in a flood zone for Mr. and Mrs. Ernst at 204 Lyons Plains Road. Seconded by Paul Heifetz. Vote in favor (7-0).

The Commission will walk the site independently before the public hearing at the next meeting on April 6th.

The Commission requested that the proposed steps be staked and to call Bill Kenny at 366 0588 before walking.

DRAFT**ENFORCEMENT ISSUE REPORT CONTINUED: LIEBERMAN, 4 GOODHILL ROAD – J. PJURA. ENFORCEMENT OFFICER**

Dr. Lieberman and Attorney George Guidera were both present. Five women were present to support Dr. Lieberman. Attorney Guidera questioned the Commission that if there were such a regulation, what would it look like? So therefore his applicant has not submitted a formal application because there is nothing to apply under. Stephan Grozinger – you would submit a proposal under the special permit regulations. Attorney Guidera stated yes, for a small doctor's office but not for a medical facility.

Dr. Lieberman went over the general requirements for a small medical office and read a letter from a former patient. Dr. Lieberman felt that the Home Office regulation is so inconvenient for a doctor to set up a practice in Weston and listed the following:

1. You have to be there 24/7
2. The doctor cannot take a vacation unless he or she has someone to cover for him
3. Most practices have 3 to 4 pediatricians
4. Need to close the office any time a doctor is sick or a vacation
5. No chance to compare notes with another doctor, no one to talk to.
6. No one to check the papers submitted.

The requirement of the amount of space you need.

1. A pediatrician's office can be a minimum of 1,000 square feet
2. For 3 pediatrician's about 2,500 square feet is required.
3. Each doctor needs to have three examining rooms and explained their use.
4. This would be a minimum requirement for an internist. Internists do not work alone. Medical staff is imperative Dr. Lieberman then gave the staffing requirements.

Attorney Guidera asked – does the Commission want a small doctor's office or does Weston want to rely on services from nearby towns? Weston is now 11,500 residents and is a different town. More care today is taken by the parents who take more time with their children than back in 1940 to 1950.

Dr. Lieberman continued with the requirements needed. You need 3 doctors and at least two could be a physician assistant, nurse practitioner and one doctor. 8 people would be nice but it could be with 6 people at one time. The pediatric practice has 2 doctors, 2 medical, receptionist and business manager and being set in a 1000-2000 square foot house is limited but felt it should not be a home occupation and there should be a medical regulation.

DRAFT

DR. LIEBERMAN CONTINUED:

Don Saltzman asked the applicant – what do you think would be fair for the Commission to approve? We need some accommodation in the way of a new regulation and need to know what your minimum requirements are. Perhaps the Commission should take what Attorney Guidera has already drafted. He felt also it's location should not be allowed on a collector road but on a major road and have it look residential with a hundred foot setback. If you do not want to buy this concept then we do not need to talk any more about Dr. Lieberman.

Paul Heifetz asked how important is it to have a local pediatrician? This could all be done 25 miles a way. He also felt that the Commission cannot write a regulation for one person. Attorney Guidera stated he was just asking for direction. Dan Gilbert – what does Dr. Lieberman provide now? Dr. Lieberman has 3000 patients and sees approximately 25 patients per day. Dr. Lieberman is now a full time owner required by the Home Occupation regulation.

Public Comment

Amy David – 18 year resident of Weston. She felt that doctors hear a lot more information than parents do on what is really going on with our children in our schools. They are eyes and ears for our residents.

Alana has two small children and likes having a Town office.

Sandra Smith resident for 6 years felt that Weston needs a doctor to support the whole community and it is a centrally located. She was very supportive of Dr. Lieberman.

Barbara Cray of Laurel Lake Road feels that Weston is special and does not want to remove the dream.

Paul Heifetz stated that the Commission does not have a proposal but Attorney Guidera can do that and we are not talking about a big office.

Dan Gilbert asked Dr. Lieberman how many hours does a doctor work? He answered - 9 to 5, 5 days a week. For two doctors share the hours and Saturday if needed. Paul Heifetz asked if you could do with three member and the answer was no.

Attorney Guidera questioned the Commission for another extension of time for the cease and desist?

The Chairman stated that the Commission members would discuss the cease and desist later in the meeting.

DRAFT**PUBLIC HEARING : SUBDIVISION, SPRATT, 65 NEWTOWN TURNPIKE (LAND TECH**

The Commission walked the site. Stephan Grozinger read the legal notice into the record.

Peter Romano of Land Tech, representing Spratt Builders, went over the site plan for the property in detail. He also stated that the applicant has Conservation approval. The health approval will come when the proposed house is designed. Fire Chief Pokorny raised the question of access and a turnaround for a fire truck.

Dan Gilbert questioned the slope of driveway being under 15%. John Conte, Town Engineer, has revised the site plan. The Land Use Director stated that the applicant needs a vicinity map on the plan along with frontage and wetlands. The applicant also needs to address the access and turnaround for a fire truck.

Dan Gilbert requested a report on zero incremental runoff for the site..

The Commission kept the public open to get the letter on the zero incremental runoff.

PUBLIC COMMENT

Attorney Tom Siegel who lives next door to this property on one side and Mr. Shultz, also present, on the other side. Mr. Siegel stated that it was one property and Mr. Spratt asked him for permission to waiver the restriction of a deed restriction for only one house. Attorney Siegel was opposed to this and felt that Mr. Spratt did not have the right to do it.

Paul Heifetz questioned if the deed is under the jurisdiction of Planning & Zoning Commission? Stephan Grozinger felt that going to court may be wasting our time to approve this; however Attorney Siegel can still go to court. Attorney Siegel stated the existing building is an outbuilding and the new house will be the one house. Does he have the right to be before the Commission? Peter Romano of Land Tech was not aware of this matter. Stephan Grozinger stated that the Commission has never really dealt with this type of situation and cannot get into this fight. Attorney Siegel asked if there is a second plan that is going to be presented as a modification and is the deed restriction valid? Stephan Grozinger stated that this is a subdivision approval and not a lot development approval.

Peter Romano will talk to Spratt Builders and get John Porkorny Fire Chief's approval for the driveway plan.

Public hearing continued to the next meeting on April 6th.

DRAFT

PUBLIC HEARING CONT: SUBDIVISION, FASH, 27 ROGUES RIDGE (BLOOM)

The Land Use Director stated that Attorney Bloom came in to her office and gave her an update. The health approval has been delayed. The Fash Subdivision will be on the agenda for the next meeting on April 6th. The Conservation Planner Fred Anderson did sign off on a plan this week.

PUBLIC COMMENT:

Gary Gruber has lived next to this property for thirty years and stated that it could not be a subdivision. Rogues Ridge is not wide enough for emergency vehicles and does not understand why they are here.

DISCUSSION: MIDTOWN LITIGATION (POSSIBLE EXECUTIVE SESSION)

Jane Connolly moved that the Commission go into Executive Session. Seconded by Dan Gilbert. Vote in favor (7-0).

Jane Connolly moved that the Commission go out of Executive Session. Seconded by Katie Gregory. Vote in favor (7-0).

Motion was made.

Stephan Grozinger moved that the Commission decline the applicant's request for mediation.

Seconded by Paul Heifetz. Vote in favor (7-0)

PUBLIC HEARING: ZONING REGULATION AMENDMENTS, SECTIONS 415, 416, 417 AND 422

The Land Use Director stated that this text amendment has been approved by SWRPA with no comments, at their last meeting. Discussion followed.

Jane Connolly moved that the Commission approve the text amendments for the Sections 415, 416, 417 and 422 for the Zoning Regulations, effective the day of publication. Seconded by Dan Gilbert. Vote in favor (7-0)

DRAFT

PUBLIC HEARING CONT: NEW SECTION 321.8 OF ZONING REGULATIONS,
ZERO INCREASE IN RATES AND EROSION AND DEFINITION TO BE ADDED
TO SECTION 610, ZERO INCREMENTAL RUNOFF

Dan Gilbert gave the Commission members an update on zero incremental runoff's new Section 321.8. A discussion followed. The Land Use Director stated she would redo the edit and email to all the members. To be on the agenda for the next meeting on April 6th.

DISCUSSION: LIEBERMAN CEASE AND DESIST

Stephan Grozinger stated that the July 24, 2006 demand memo where the Code Enforcement Officer becomes aware of the violation and then decides to pass it along to the Planning & Zoning Commission. We have suspended that entire procedure of sending a cease and desist letter and giving the person 10 days to fix it.

Dan Gilbert suggested to null and void that letter sent by the Code Enforcement Officer or get a State Marshal to serve a State order. Mr. Gilbert stated that he does not want to do this decision in ten days and felt it will take much long period of time to solve it.

Jane Connolly – let it stand and be creative about the timing. A discussion followed

Stephan Grozinger felt that the Code Enforcement Officer could send a demand letter and if the problem is not resolved in 10 days then extend the time to the end of the year. This way we are not ignoring the Zoning Regulations.

Dan Gilbert felt this would give Dr. Lieberman time to reorganize his medical office or perhaps sell his practice and demonstrate to the community that the Planning & Zoning Commission is sensitive to the children.

Paul Heifetz moved that the Commission vote in favor of adopting Stephan Grozinger's suggestion of writing another demand letter and extending the cease and desist for Dr. Lieberman until December 31, 2009. Seconded by Ridge Young. In favor (5-2) Don Saltzman and Katie Gregory opposed.

OTHER BUSINESS:

Stephan Grozinger presented a draft to the Commission members, entitled "Draft Protocol regarding 8-24 Applications, Received by the Planning & Zoning Commission" (pending resolution of the dispute regarding validity of any exemption). To discuss further at the next meeting on April 6, 2009.

Meeting adjourned.

Respectfully submitted.

Joan Lewis, Administrative Assistant

Approval: