

Present: Stephan Grozinger, Chairman; Jane Connolly, Vice Chairman; Don Saltzman, Ridge Young, Joe Limone, Katie Gregory Absent: David Allen

Land Use Director not present at this meeting.

Meeting on tapes 1-4 dated 10/18/10

APPROVAL OF MINUTES:

Joe Limone moved that the Commission approve the minutes, as amended, for October 4, 2010. Seconded by Ridge Young. Vote in favor (5-0) Katie Gregory and Jane Connolly absent for the October 4, 2010 meeting.

CHAIRMAN'S REPORT:

Copy of this report is attached.

RECEIPT OF APPLICATION: SPECIAL PERMIT – APARTMENT, 11 SLUMBER CORNERS, PLIMPTON

Mr. Plimpton presented his application for a special permit for an existing accessory apartment and now wishes to make it legal.

Jane Connolly agreed to do a site visit to the apartment.

Jane Connolly moved that the Commission receive the application for a Special Permit for an Apartment, located at 11 Slumber Corners for John and Laura Plimpton. Seconded by Katie Gregory. Vote in favor (6-0) David Allen absent.

A public hearing will be held on November 1, 2010.

RECEIPT OF APPLICATION: MODIFICATION TO SUBDIVISION APPROVAL, FAR HORIZONS SUBDIVISION, 10 LADDER HILL ROAD (ADC-10 LADDER HILL LLC (SPATH))

Chick Spath of the Huntington Company was present and stated that the modifications to the subdivision were approved on September 7, 2010. This approval received a summons and complaint from one of the abutting property owners, Vivian Simons for improper notification. Based upon this summons received, Mr. Spath hereby requests that the Commission receive a new application incorporating the same plans and reports as previously approved, including the same terms and conditions of approval. He also requested an additional modification to re-phase Lot 1 from the current phasing plan

FAR HORIZONS CONT:

showing Lot 1 as part of Phase 3 to a new phase to be called Phase 1A, thus enabling the developer to transfer and sell this lot prior to the construction of the private lane and common driveway serving lots number 2, 3 and 4. Due to the current land market conditions, by the removal of Lot 1 from this phasing plan and allowing the sale of this free-standing lot, it will allow the developer to use these funds towards the construction of Phases one and two and the reduction of the current mortgage.

Jane Connolly moved that the Commission receive the application for a modification to subdivision approval, Far Horizons Subdivision, 10 Ladder Hill Road. Seconded by Joe Limone. Vote in favor (6-0) David Allen absent. There will be a public hearing held on November 1, 2010.

DISCUSSION OF APPLICATION: LOT DEVELOPMENT – DUPRE SUBDIVISION, 9 TWIN OAKS, W. QUIGLEY, 2 CAR GARAGE (BRIAN MCHUGH)

Brian McHugh, builder, was present and submitted the engineering reports for the runoff as required. Health and Conservation approvals were also in place. The Commission members walked the site.

Stephan Grozinger read the Town Engineer's memo, dated October 18, 2010, into the record, as follows:

“As per your request, I have reviewed the application for a two car garage at Lot 8 of the Dupre Subdivision, to determine if a driveway application and bond would be required for this application. There is an existing curb cut and driveway leading to the residence on the property. With the existing driveway in place, a driveway permit and bond will not be needed”.

Joe Limone moved that the Commission approve, with amendments, the draft Notice of Approval for Lot Development Plan for 9 Twin Oaks Lane, Lot 8 of the Dupre Subdivision for owners William H. and Stacy Danielson Quigley. Seconded by Jane Connolly. Vote in favor (6-0) David Allen absent.

A copy of the approval is attached.

PUBLIC HEARING CONT: DETERMINATION PURSUANT TO SECTION 8-26 OF THE CONNECTICUT GENERAL STATUTES OF WHETHER SUBDIVISION APPROVAL IS REQUIRED, REVISED PARCEL 515B ON MAP 3443 AND REVISED PARCEL 475A AND 475B ON MAP 3444, GEORGETOWN ROAD (LOST TRAIL LLC) (ATTORNEY FULLER)

Attorney Fuller and Robert Walpuck were present to discuss with the Commission members for the purpose of confirming the three lots and one lot for Sovereign Bank, previously approved for a zoning permit by Planning & Zoning did not require subdivision approval. Two parcels of land on the maps that previously existed subdivision and zoning regulations in Weston – Lots 515B and 475 boundary adjustment between these two parcels in 1998 did not require approval by the Town was revised and approved by the Zoning Enforcement Officer and the Town Engineer. Attorney Fuller's position is that a boundary line adjustment between two parcels is not a subdivision and that Revised Parcel 525B on Map 3443 and Revised Parcel 475 A and B on Map 3444 do not require subdivision approval.

Attorney Fuller stated that there were two parcels of land on maps that pre-existed zoning regulations in Weston. Map 475 and 515. The boundary line adjustment between these two parcels in 1998 did not require approval by the Town even though it was reviewed by the Zoning Officer and Town Engineer. Attorney Fuller's position is that a boundary line between two lots is not a subdivision and subject to Section 8.26. He felt it can be done by property owners by right, two parcels before the boundary line change and two parcels after the boundary line change. The size of the boundary line change does not make any difference. He referred to Section 8-18 of the Ct. General Statutes, did not receive subdivision approval which is by the preceding function of Section 8-26. With this request with the Commission that the four lots were properly approved and stamped by Town officials, the Town Engineer and the Code Enforcement Officer, who was the Zoning Officer in 1998. This application is only for the limited purpose of recognizing that these lots (Sovereign lot has already come before you) that the 3 lots owned by Lost Trails do not require subdivision approval land, do not require a subdivision application. Attorney Fuller wanted to clarify that he is not requesting subdivision approval and unlike the Sovereign Bank application, not requesting zoning permits or determination on whether the lots meet the zoning regulations. That would be decided at another time, another application.

Attorney Fuller then briefly described some history of the procedures of the Town – the concern from 1980 to 1990 about filing maps in the Land Records. The B. Hawkin's letter of February 14, 2000 (attached) was discussed.

LOST TRAIL CONT:

Attorney Fuller indicated had Bob Walpuck go to the Land Records and see how maps were filed after the Hawkin's letter, following this procedure. Before and after 1998, John Conte and Ed Hahne stamped 50 maps or more with the stamp in question. Stephan Grozinger asked if this procedure was added to our Subdivision Regulations? Attorney Fuller did not know. It is clear that it was not a one time occasion and that it happened 50-60 times before and after 1998 maps.

He further stated that Lost Trails mortgaged four lots to Wilton Bank and the description that was used to Wilton Bank (showed the first page of the mortgage for 515 A & B, map 3443 and 475 A&B map 3444 after the two Town Officials reviewed). Attorney Fuller submitted a copy of the mortgage, dated 12/28/99 for the amount of \$472,500 with one lot released and then mortgaged to Sovereign Bank.

Attorney Fuller went thru the sequence of maps with the Commission members (he only had one set)

He showed two maps before zoning for lots 475 and 515 prior to zoning in original configuration. Lost Trails bought the property. He then read the Town Engineers and Code Enforcement officer wording on the map.

The next map 3440 – boundary line adjustment divides former 515A and 515B. They were laid out for the minimum square and did conform to zoning regulations.

At this point, Stephan Grozinger and Jane Connolly had questions about matching the maps. Discussion followed.

Attorney Fuller stated again that Lost Trails owned all the lots.

Map 3441 R. Walpuck explained the turnaround and the Conservation requirement, Map 3443 adjustment. Don Saltzman mentioned a merger clause asked whether it has anything to do with 475 and 515. Discussion of the maps continued. More discussion of boundary line adjustment and the Goodridge case. Katie Gregory stated that she had the Barry Hawkin's letter and two other cases of boundary adjustments.

LOST TRAILS CONT:

Robert Walpuck stated: to other minor changes to these maps 3444 with two lots 475 A& B with more detail and minor adjustment in the road circle.

Two years later, after the mortgage to Wilton Bank of the two lots; Attorney Fuller indicated that for some reason some counselor for the Town asked the Town not to recognize the stamp. This was done without any notice to Lost Trail or any authority and the Town official were instructed not to allow the lots and Attorney Ken Bernhard instructed the Assessor to combine the lots into one lot.

R. Walpuck feels it is completely wrong and questioned why it was done. He didn't know and felt the Assessor does the best job they can. It is not consistent with what is in the Land Records. What is in the Land Records are these maps which were mortgaged to the Wilton Bank with these same descriptions on maps 3443-3444 later Sovereign Bank gets one of the lots – Map 515 A – Lost Trails still has title to the other ones.

Stephan Grozinger asked Don Saltzman – “did you get an opportunity to make your point?” Don Saltzman asked “ do the Town’s zoning regulations have that merger clause, and is that any bearing on the Map 515 and the Map 475, in the same owners of the common boundary line and take ownership of the common boundary line?” Stephan Grozinger felt it was only triggered if the lots were undersized and if they took out a building permit.

Attorney Fuller – Wilton has a regulation dealing with this. All lots approved on the series of sequence of maps and Lost Trails relies on this. Banks relied on it and that is what is shown in the Land Records.

Jane Connolly asked whether all adjustments were done prior to July 28, 1999 –Attorney Fuller answered yes.

Attorney Fuller stated he did not agree with Attorney Pat Sullivan regarding her opinion on major and minor lot line changes.

Attorney Fuller gave copies of several court cases to the Commission members. The leading case is the Goodridge vs Zoning Board of Appeals - 2000 – re boundaries. He also left two more cases that did not require subdivision approval – Diana Ross vs Planning Zoning – Town of Greenwich and Derham vs. Brown, Town of Farmington.

LOST TRAILS CONT:

Attorney Fuller questioned, if map 515A for Sovereign is good – why is 515B not good? He then referred to one other case, Hartford vs. Danbury dated 2003 , see Ct. General Statutes 8-18, does not require a subdivision.

He further stated, recognizing these lots do not require subdivision approval but may require zoning approval to recognize what the Town Officials received and approved. He went over the adjustments again and later for a zoning permit,.

Jane Connolly summarized the description with Attorney Fuller .

1. two separate lots 475 and 515
2. held in common ownership but are remaining two separate lots
3. Lot 515, move the boundary line between two of them and divide 515 into two separate lots
4. cut up 475 into 2 lots
5. because they started as 2 lots and not 3

Attorney Fuller – boundary lines adjusted are not a subdivision and what is left over shift the line between the two lots – that’s okay (are the same owner) not a subdivision and whatever lots are left over, two parcels that result from the boundary line adjustment, if you divide that parcel into two lots, its okay. If you divided into three lots would not be okay.

Jane Connolly to R. Walpuck – you feel that a boundary line is a minor thing and does not matter if its major or minor, it just a boundary line adjustment? R. Walpuck agreed. Therefore cutting the lot in two, regardless of the boundary. Seems to be a first cut. Jane Connolly – is it being litigated and also is there a foreclosure on Lost Trails LLC.

What was recognized in 1998? Lost Trails, foreclosure, lots 475 A and B and 515B Did approve Sovereign Bank 515A

Public Comment: An abutting neighbor came to the table and stated that they did not object to what Attorney Fuller is proposing.

Don Saltzman stated that in 1998 that they could not stop anybody from filing a map. Attorney McKeon was filing maps and coming in with claims. Attorney Fuller felt the Town is bound by what the stamp says. Stephan Grozinger stated that litigation is not relative to what we are discussing now. Don Saltzman wished to discuss the two stamps.

The Commission members requested more time to research the material submitted.

Stephan Grozinger asked the applicant to come back for a continued public hearing on November 1.

LOST TRAILS CONT:

Patty Gay, Forum reporter, suggested to the Commission to ask the Town Engineer what he meant when he signed the maps? Attorney Fuller said to ask John Conte, Town Engineer and Pat Sullivan, Town Attorney to come in, if you want

A resident couple from Georgetown Road expressed their concern about the validity regarding the two stamps.

DISCUSSION: POTENTIAL SUBMISSION REQUIREMENTS FOR 8-24
MUNICIPAL IMPROVEMENTS REFERRAL FOR A CEMETERY ON PROPERTY
OWNED BY THE TOWN OF WESTON

Stephan Grozinger referred to the First Selectmen's letter and response. A discussion followed regarding the letter and the survey. Stephan Grozinger questioned the Commission members as to what the Commission would require for this 8-24 Report, such as an A2 property survey for Fromson Strassler. Don Saltzman went over his list of 17 suggested requirements

Stephan Grozinger's response letter to the First Selectman, was read and discussed by the members and Jane Connolly suggested taking out the last paragraph of the draft letter, by consensus of the Commission.

Stephan Grozinger asked Ridge Young to visit Emmanuel Church to gain information on their cemetery plan and found that Emmanuel church has 100 cemetery lots remaining in their existing cemetery but Stephan Grozinger felt that for Emmanuel Church should not inter remains on their second lot. Jane Connolly stated that the Commission has no regulation for this.

Ridge Young raised the question of fiscal responsibility to the town and maximizing the use of Town property. Stephan Grozinger stated he will be on a panel with the Board of Education.

Katie Gregory stated that she wished to apologize to the Commission in assuming that all members supported the regulations sent to SWRPA on 10/5/10, regarding the proposed Cemetery Regulations. Discussion followed.

Meeting adjourned.

Respectfully submitted.

Joan Lewis, Administrative Assistant

Approval: Minutes unanimously approved on December 20, 2010. David Allen and Don Saltzman absent.