

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

Tracy Kulikowski, Land Use Director

Meeting on tapes 1-5, dated 11/1/10

APPROVAL OF MINUTES:

Postponed until the next meeting.

CHAIRMAN'S REPORT:

Stephan Grozinger went over his Chairman's report in detail, touching on the enforcement moratorium on Section 321.2(d)(6), requiring an owner to occupy the principal residence of a home with an apartment, which will expire at the end of December 2010. Also to please consider how the Commission would like to handle this matter. Don Saltzman felt it should be left alone. Ridge Young and Jane Connolly felt the Commission should look at it and it was then decided to discuss it further at the next meeting on November 15th.

Ridge Young stated that he received the handout from Emmanuel Church regarding grave sites and felt it did not do the Commission any good. It was very guarded about giving out information, just the price for a gravesite. A discussion followed.

Stephan Grozinger offered to send them a letter. Don Saltzman felt the Commission should wait until the Town settles their issue with the Cemetery Committee and then decide. After a discussion, it was the consensus to send Emmanuel church a letter which the Chairman will draft.

Ridge Young reported on composting and stated that he contacted the Westport Weston Health District. His contact stated that it has been a failure in Westport and suggested that he go to Fairfield for information, as they have a much better program. Ridge Young has not yet visited Fairfield.

Stephan Grozinger submitted his draft proposal SOP for the Zoning Enforcement Officer position, to the members. It was the consensus to discuss this matter under other business, at the end of the meeting.

A copy of the Chairman's report is attached.

RECEIPT OF APPLICATION: LOT DEVELOPMENT PLAN, 10 HEMLOCK RIDGE ROAD (FYBER DEVELOPMENT)

Steven Minkowitz presented his application to the Commission for proposed lot development located at 10 Hemlock Ridge Road, for a new house. He explained his plan for new construction consisting of a 5,000square foot house, including health and Conservation approval. The house, driveway and septic are staked for a site walk and David Allen volunteered to go. The Commission questioned if the activity was in a flood zone area? They also requested Mr. Minkowitz to check on a noted easement on the site plan. Don Saltzman moved that the Commission receive the application for proposed lot development at 10 Hemlock Ridge Road, for a new house. Seconded by Jane Connolly. Vote in favor (6-0) Joe Limone absent.

DISCUSSION/DECISION: MODIFICATION TO ZONING PERMIT PETER'S MARKET EXPANSION REQUEST FOR 204 WESTON ROAD (TOLK)

Josh Tolk of Rand Real Estate Services, was present to discuss the open building permits of the Lunch Box and Peter's Market expansion and open zoning issues initiated by Robert Turner, former Zoning Officer. Mr. Tolk submitted a letter explaining these issues in detail and then went over them with the Commission members.

Mr. Tolk stated that the parking expansion met the parking regulations. He discussed, in detail, the electrical transfer issue, proposed trash enclosures for all tenants. He stated that the transformer is protected but not enclosed. He handed out pictures of the Center at the present time and went over them in detail. A discussion followed regarding the trash dumpsters, the procedure followed by each tenant for trash disposal and the possibility of two or three large dumpsters in a central location for all tenants.

Katie Gregory felt that Mr. Tolk should give it some thought and come back to the next meeting with some ideas. Stephan Grozinger felt a letter should be written to all the tenants, from the Commission.

PUBLIC HEARING: MODIFICATION TO SUBDIVISION APPROVAL, FAR HORIZONS SUBDIVISION, 10 LADDER HILL ROAD (ADC-10 LADDER HILL LLC/SPATH)

This application will not being going forward this evening because of a notification problem to the neighbors and therefore the public hearing was not opened.

PUBLIC HEARING: SPECIAL PERMIT – APARTMENT, 11 SLUMBER CORNERS, PLIMPTON

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

Mr. Plimpton, owner of the apartment was present. Jane Connolly visited the site and felt that the apartment complies with the Zoning Regulations. Mr. Plimpton stated that he had talked to the Westport Weston Health Department and that an approval would be forth coming on Tuesday, November 2.

There were no questions from the Commission.

Public Comment: none

Jane Connolly moved that the Commission close the public hearing. Seconded by Stephan Grozinger. Vote in favor (6-0) Joe Limone absent.

Jane Connolly moved that the Commission approve the Special Permit for an accessory apartment, located at 11 Slumber Corners, for Mr. and Mrs. Plimpton. Approval is subject to the date of the health approval from the Westport Weston Health Department. Seconded by Ridge Young. Vote in favor (6-0) Joe Limone absent.

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)

Robert Walpuck and Attorney Robert Fuller were present. Attorney Fuller stated that he went thru the document emailed to him by the Chairman of the Commission, of past history and referred to the first cut explanation in the Goodridge case. He also referred to the Balf case, the Ross case, Durham vs. Brown case and the description of each one. He noted that Sovereign Bank reference and the important point, the officials were authorized to use the stamp on the map and (2) banks relied upon the stamp. The applicant is not asking for a zoning permit, just recognition of what the original officials did.

Jane Connolly questioned the two lots (5 acres plus or minus and the three acres plus or minus, Lots 475 and 515 and the lots that came out of this was from a boundary lot adjustment. Attorney Fuller explained the map no. 3438 for lots 475 and 525 and noted that Lot 515 is from 1946, consisting of 5 plus acres, which is before zoning and Lot 475 is three plus acres and can only get one lot by moving the boundary line; so there are four building lots instead of three building lots. First boundary adjustment is not a first cut.

LOST TRAILS CONT:

Don Saltzman stated that he did his own research on court cases.

1. Planning & Zoning hired Shipman and Goodwin for a legal opinion for Town of Weston to write a letter on the status of the land. Barry Hawkins also was employed by the Town.
2. Addressing the stamp. If you read carefully, it does not apply to the land depicted it applies to the map. Administratives put this stamp on the map for filing in the Town Clerk's office. Maybe the stamp has no legal standing.
3. The court and judge opinions. Some on Stones Trail until Lost Trails. Refers to the decreased reval around the lot line changes.

The Land Use Director handed out copies of the court cases to the rest of the Commission members.

Don Saltzman continued with the following:

Stones Trail vs. the ZBA 1171HRM – 2008 – on page 2, there two cases referring to Sovereign Bank and the bottom paragraph regarding the boundary line. Attorney Fuller stated that this was rescinded by the judge.

Don Saltzman then referred to the 1312 case – Attorney Fuller explained that the Federal Court threw out the Federal claim and it doesn't discuss what we are talking about here.

Don Saltzman further research – page 2 of 6 – 1820 – goes into the maps of 515 and 475. Attorney Fuller agreed. Robert Walpuck wanted to submit an application for the same as now but it was rejected and never made it to the Commission. Attorney Fuller stated they are not considering these other lots at this time. (Sovereign).

Don Saltzman stated he would be more comfortable if the applicant were applying for a zoning permit like Sovereign Bank. Attorney Fuller stated they are not applying for zoning permits now. It is a lot of work to put together maps right now. Don Saltzman asked Attorney Fuller to explain the first cut in this case.

Don Saltzman then referred back to the stamp.

Robert Walpuck referred to the Martin Road situation and that Don Saltzman was the Chairman of the Planning & Zoning Commission at the time and was the one who refused the application. Don Saltzman questioned –is there a letter?– Mr. Walpuck stated yes – Don Saltzman asked it was signed and Mr. Walpuck stated no.

Mr. Walpuck stated that the Town hired Simon Sonberg, and the Town and the bank relied on the stamp. He again referenced the Martin Road situation and felt he was right.

LOST TRAILS CONT:

Katie Gregory felt that if the Commission checks on what the stamp says and then you don't have to reach the second tier

Attorney Fuller felt the stamp is the answer and it does not matter what the division is and then referenced the Balf Case.

Stephan Grozinger asked that you the applicant would be satisfied with the stamp issue? Attorney Fuller stated that he kind of thinks he would.

Public comment – none

It was stated that the public hearing timing can go to November 22 and therefore be on the November 15th agenda and then make a decision in 65 days.

Don Saltzman stated that on December 10th he is to have surgery and really wants to be part of the decision. Stephan Grozinger decided to leave the public hearing open.

There was then a discussion about the Town Attorney having a conflict regarding this application.

Attorney Fuller explained the reason for Attorney Sullivan's conflict of interest and understood it. Katie Gregory asked if the Commission should have other counsel?

Attorney Fuller stated that the Town Attorney does have a disagreement on the major or minor lot adjustment issue. The stamp is a different issue.

Don Saltzman stated that hiring another Town Counsel is appropriate and one who is not connected and can act quickly.

Don Saltzman moved that the Commission needs to approve, in an effort to protect record, that Chairman needs to invite an outside special zoning attorney for counsel.

Seconded by Katie Gregory

Discussion:

Jane Connolly okay

Stephan Grozinger opposed

Don Saltzman - need someone with expertise, to interpret case law and help the members in making a decision.

Katie Gregory felt we already have legal opinions and what does it add to get another one?

Attorney Fuller stated that he feels the stamp is clear and do not need to hire counsel.

David Allen – felt there was a hidden agenda here

LOST TRAILS CONT:

Katie Gregory – If Town Attorney Pat Sullivan did not have this conflict of interest, she would be commenting on the stamp.

Don Saltzman - what are you asking for, is the whole issue and not just the stamp?

Ridge Young – see no benefit for extending the time schedule but will back getting additional counsel.

Don Saltzman – needs some interpretation especially with the stamp and clarification on the package. This is not pure zoning.

Jane Connolly felt the Commission needs to solve the stamp issue first.

Katie Gregory – start with the stamp

Ridge Young – the stamp is all he cares about.

Vote (4-0)– all in favor oppose (1) Absent: Joe Limone and David Allen had left the meeting

Motion:

Don Saltzman moved that the Commission approve hiring outside counsel to help the Commission members interpret the legality of the stamp. Seconded by Ridge Young.

Discussion none. Vote in favor (4-0) (1) opposed – Stephan Grozinger

Absent. Joe Limone and David Allen

Jane Connolly and Stephan Grozinger will look for counsel and inform the members at the next meeting. The Land Use Director will get the fee approved as there is a procedure we have to follow.

Jane Connolly will work with the Land Use Director on this project. Don Saltzman felt \$5,000 would be needed. The Commission will leave the public hearing open until the next meeting on November 15th.

Attorney Fuller stated that he would probably give an extension.

Discussion followed that the special counsel would have to make a presentation. Ridge Young and Katie Gregory did not need a presentation and Jane Connolly felt the same.

DISCUSSION: TOWN PLAN IMPLEMENTATION

Stephan Grozinger referred to his Chairman's report on the Sustainability Committee. Katie Gregory did report on the progress of the use of the schools and will talk to the First Selectman for more detail. She will follow up.

SOP FOR ZONING ENFORCEMENT OFFICER :

Stephan Grozinger went over his draft "Standard Operating Procedure" proposal for James Pjura, Zoning Enforcement Officer. Discussion followed regarding giving the Zoning Officer more responsibility to include Flood Plain Activity applications.

Motion:

Don Saltzman moved that the Commission approve to adopt this plan of Standard Operating Procedure for the Zoning Enforcement Officer, to be effective immediately. Seconded by Jane Connolly. Vote in favor (5-0) David Allen and Joe Limone absent.

EXPIRATION OF TERM OF SWRPA REPRESENTATIVE. DR. THOMAS FAILLA

Stephan Grozinger talked with Tom Failla and Mr. Failla agreed to serve another term.

Motion:

Jane Connolly moved that the Commission approve Dr. Thomas Failla to serve another term as the Planning & Zoning representative to SWRPA. Seconded by Katie Gregory. Vote in favor (5-0) Joe Limone and David Allen absent.

Meeting adjourned.

Respectively submitted.

Joan Lewis, Administrative Assistant

Approval: Unanimous approval on December 20, 2010; Don Saltzman and David Allen absent