

ZONING COMMISSION MEETING

MONDAY, JUNE 28, 2010

TOWN HALL 7:00 P.M.

Present: Chairman Ronald Sherlock, Peter Brazaitis, Clarence Caldwell, Nancy LaGanga, Todd Ouellette, Land Use Coordinator Polly Redmond and Zoning Enforcement Officer Karen Nelson.

Absent: Judith Pleau, Amy Calabrese and Robert Lavoie

PUBLIC HEARING

1. **OPEN HEARING – ESTABLISH QUORUM.**

Chairman Sherlock called the hearing to order at 7:00 p.m. All regular members present are seated.

2. **DAN GERVAIS – APPLICATION FOR SITE PLAN APPROVAL FOR AFTER-THE-FACT ACTIVITIES, BRINGING IN/REMOVAL OF FILL, CLEARVIEW STORAGE PARK, LLC, 133 CLEARVIEW AVENUE.**

Mr. Gervais is present with his attorney, Peter Herbst, and his engineer, Dennis McMorrow, Berkshire Engineering. Proof of ten certified mailings are received from the applicant, with eight return receipts collected. Cynthia Yanok and Ralph & Patricia Leone have not picked up their notifications. Plans by Berkshire Engineering consisting of Sheet S1, Site Development Plan and Sheet D1, Detail and Notes, dated 10/13/09, revised 4/26/10 for WMC comments are reviewed. Atty. Herbst gives history of Mr. Gervais' application stating it was first presented to Zoning in April 2008 where it was denied for incomplete application and site plan which lacked soil and erosion control measures and lack of performance guarantee. Atty. Herbst states that Mr. Gervais has been working on presenting a new application for two years and has recently received IWWC approval on 6/7/10.

Dennis McMorrow, Berkshire Engineering, reviews the site plans pointing out areas of concern along the west side that had cuts and fills over the years. He explains the inadequacy of the flat catch basins located on the property that cannot handle the water going into them and has proposed a detention basin. Mr. McMorrow states they've assumed the site back to what it was in the western area to a wooded condition prior to any cutting and filling and made the discharge from the site equal to that pre-development, wooded condition. A level spreader will be created at the bottom of the slope with rip rap at the west end. W.M.C. Consulting Engineers have reviewed the site plans and are satisfied as indicated in W.M.C.'s report of April 28, 2010. Inland Wetlands and Watercourses Commission approved the application with condition that with the construction sequence, three phases shall have \$10,000 bonding. After each phase, a meeting will take place with Dennis McMorrow, P.E. and IWZEO Karen Nelson who will then sign off verifying completion. Mr. McMorrow shall provide reports after each phase as well. Mr. McMorrow estimates a 60 to 90 day project with stability of the site before winter. Chairman Sherlock acknowledges letters/reports from W.M.C. dated 2/23/10, 3/24/10 and 4/28/10. ZEO Nelson states she has been to this site over the past two to three years and has seen fill going in and also the attempt of stabilization of the slope with woodchips. She, as well as neighbors, has had concerns over this slope and the fact that no neighbors have shown up at this public hearing may indicate that what has been done is satisfactory to them. It is her belief that the site plan before this commission addresses stability and safety. Mr. Caldwell's questions the function of the detention basin during the winter months with Mr. McMorrow stating it will function at all seasons and also during heavy storms. Mr. Brazaitis questions if the degree of the slope has changed with Mr. McMorrow assuring him it has not. Mr. Brazaitis questions what the usable area at the northern top of the slope is with Mr. McMorrow stating that having the detention basin in the area at the top of the slope will prevent anything from being parked there.

At this time, Chairman Sherlock opens the floor for public comment to which there is none. With no further comments by the commissioners, Mrs. LaGanga **motioned** to close the hearing at 7:28 p.m., seconded by Mr. Brazaitis. The motion passed unanimously.

REGULAR MEETING

1. OPEN MEETING – ESTABLISH QUORUM.

Chairman Sherlock called the regular meeting to order at 7:28 p.m. All regular members present are seated.

2. APPROVE MINUTES OF PREVIOUS MEETINGS: 6/14/10, special meeting 6/23/10.

Mr. Brazaitis **motioned** to approve the minutes of 6/14/10, seconded by Mr. Caldwell. The motion passed unanimously. Minutes of 6/23/10 are tabled until the next meeting.

3. DISCUSSION/POSSIBLE DECISION – DAN GERVAIS – APPLICATION FOR SITE PLAN APPROVAL FOR AFTER-THE-FACT ACTIVITIES, BRINGING IN/REMOVAL OF FILL, CLEARVIEW STORAGE PARK, LLC, 133 CLEARVIEW AVENUE.

Chairman Sherlock states that a job was well done in what has been presented to this commission tonight. He acknowledges the effort made by Mr. Gervais and his engineer to work with the town and resolve this matter. Mrs. LaGanga **motioned** to approve the application for site plan approval with the condition that the bond set by the IWWC be in place and reports, site visits, and ZEO Nelson inspections be conducted. Mr. Caldwell seconded the motion and it passed unanimously.

4. TOM ROTONDO – APPLICATION FOR 20' X 18' ADDITION TO BARN, 15 MEADOW LANE.

Mr. Rotondo is present. Plans by Thomas Rontondo, P.E. dated 3-4-85, revised 6-28-10 are reviewed. TAHD approval is outstanding. Mr. Rotondo points out that the size of the addition has changed to 20' x 20'. Mr. Caldwell **motioned** to approve the application pending TAHD approval, seconded by Mr. Brazaitis. Motion passed unanimously.

5. CAROL KEARNS – APPLICATION FOR 1600 S.F. ADDITION TO HOME, 484 BURLINGTON ROAD. REQUEST FOR WAIVER OF ENGINEERED PLAN.

Carol Kearns and Harry Schuh are present along with their builder, Curt Carlson. A letter dated 6/14/10 requesting waiver of the engineered plan requirement has been received. A sketch of the addition using recorded Map No. 434 is provided showing the house location. The proposed addition shall be 85 feet to the front property line facing White Oak Drive and 93 feet to the front property line facing Route 4, Burlington Road. TAHD and IWWC approvals have been received. Mrs. LaGanga **motioned** to waive the requirement of an engineered drawing, seconded by Mr. Ouellette. **Motion** by Mr. Ouellette to approve the application, seconded by Mrs. LaGanga. Both motions passed unanimously.

6. MARK DROUIN – APPLICATION FOR 30' X 40' DETACHED GARAGE, 46 WILSON POND ROAD.

Mr. Drouin is present. Plans by Robert Green dated 6/7/10 are reviewed. TAHD and IWWC approvals have been received. Driveway expansion to the detached garage is proposed. An as-built shall be required after completion of construction to ensure setback conformity. Mr. Brazaitis **motioned** to approve the application with the condition that an as-built be provided at the end of construction, seconded by Mr. Ouellette. The motion passed unanimously.

7. COMPLAINTS/ENFORCEMENT ACTIONS:

GRJH, 207 Birge Park Road

Mr. Lloyd Helm, GRJH, is present to represent. He states he was here tonight to address the septic but just received a copy of a letter from Ken Hrica, P.E. dated 6/23/10, as did members of this commission where he states his

6/2/10 analysis of the retaining wall structure should be made invalid and disregarded. GRJH has never provided the Land Use office, or the commission, with Mr. Hrica's analysis. ZEO Nelson suggests W.M.C. inspect the property, specifically the septic, though it isn't even staked at this point. Chairman Sherlock questions how the wall stability is going to be addressed with Mr. Helm stating they will get an engineer on site to look at the bioswale for any possible concerns affecting the wall (as suggested by Ken Hrica's 6/23/10 letter). Again, ZEO Nelson suggests getting W.M.C. involved. Chairman Sherlock questions how the content of Mr. Hrica's letter might affect the IWWC approval with ZEO Nelson stating that if incorrect information was presented to the commission by the applicant, IWWC can rescind their approval. Commissioners agree to allow Michael Sabolcik, whose wife owns adjacent property at 199 Birge Park Road, to speak. Mr. Sabolcik provides photos of erosion coming down from GRJH property and crossing over his driveway. ZEO Nelson states there has been runoff issues since last fall. Chairman Sherlock questions if there is a drainage calculation report with the Land Use Coordinator offering that only one is on file by Hrica Associates. Mr. Helm states he has recently contracted with another engineer who is prepared to do the septic work. ZEO Nelson states that as of today she spoke with Jim Rokos, TAHD, who informed her that there are no firm plans on the septic at 207 Birge Park Road; that they are in the middle of reviewing. Ms. Nelson states it is up to TAHD to review and approve the design of the septic and they may have issues because so much has changed on the site. Mr. Helm asks for two weeks to show this commission what he can get done as he has put himself in charge of accomplishing what this commission is asking.

Chairman Sherlock asks for a contact person name and telephone number with Mr. Helm naming himself and giving his cell phone number. Mrs. LaGanga asks for assurance that no customers or employees shall park in front of the retaining wall until a report is received on the stability of it. It is agreed by the commission that a fence should be placed restricting any parking in the area of the wall. Chairman Sherlock agrees that the integrity of the wall is important as the drainage calculations are incorrect because of the site change. Mr. Brazaitis states he would like to see a Cease and Desist Order issued on the site. It is the consensus of the commission to allow two weeks in order for Mr. Helm to provide the following:

- *Address the drainage issue with adjacent property.
- *Provide new drainage calculations.
- *Status Report on the septic system installation.
- *Address the stability of the retaining wall and provide a report to this commission by a qualified engineer.
- *A temporary fence shall be placed on the south side of the parking lot prohibiting any parking in front of the retaining wall.
- *Address the (improper) construction of the bioswale.
- *File the two Special Permits (mailed to Mr. Helm) in the land records of the Harwinton Town Clerk's office.

TARGA, Sunset Ridge, Mountain View Drive

Mr. Caldwell recuses himself from any discussion on this matter. ZEO Nelson explains that a second house is being constructed within the age-restricted development. She has visited the site and found the road breaking down and the area, as a whole, unmaintained. She has heard from Torrington neighbors of the site who claim that the property is being used as a pass-through from Harwinton to Torrington and vice versa. ZEO Nelson reminds the commission that the road is not the town's responsibility, it is the developers. ZEO Nelson believes the commission should be made aware of issues the project is facing. LUC Redmond will email conditions of approval to the members of the commission for further discussion at the July 12, 2010 meeting.

Mr. Caldwell is reseated.

HOMETOWN PIZZA PLAZA, LITCHFIELD ROAD, ROUTE 118

ZEO Nelson updates the commission on the Plaza's problems with septic. An upgraded septic has been installed without notifying the IWWC and is now experiencing problems. TAHD has stepped in and ZEO Nelson believes the matter may come before the Zoning Commission in the future.

8. DISCUSSION – PROPOSED REGULATIONS ON AGRICULTURAL USE AND FARM DEFINITIONS, RIGHT TO FARM LAW INCLUSION AND REVIEW OF SECTION 6.5 KEEPING OF ANIMALS.

Commissioners discuss the possibility of holding a special meeting sometime in September to discuss proposed Agricultural Regulations. Notices shall be sent out to area farmers encouraging their attendance and input.

9. ANY OTHER BUSINESS.

ZEO Nelson visited the Fairview Farms Golf Course regarding a large tent that has been put up. The Building Inspector questioned whether a Zoning permit was required as he was told that the frame of the tent will remain all year long. Ms. Nelson believes that a Zoning permit as well as a Building permit must be taken out by the property owner. LUC Redmond will contact Mr. Ferrarotti and ask him to come in to fill out the permits. The Zoning Commission authorizes the LUC to sign off on the Zoning application.

10. CORRESPONDENCE.

Letter from The Northwestern Connecticut Regional Planning Collaborative has been received notifying the commission that they are ready to expand beyond initial eight pilot project towns to other towns in the NWCCOG and LHCEO regions. They invited the town to become a member. Jocelyn Ayer, Collaborative Planner will be visiting the Planning Commission at their regularly scheduled meeting on September 8, 2010. The Zoning Commission is invited to attend.

11. INVOICES.

None.

12. ADJOURN.

Mr. Caldwell **motioned** to adjourn the meeting at 9:25 p.m., seconded by Mr. Brazaitis. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

RECEIVED FOR RECORD AT HARWINTON, CT
ON 7-6-10 AT 11:08AM
ATTEST: PATRICIA K. WILLIAMSEN, TOWN CLERK