

CONSERVATION COMMISSION

REGULAR MEETING JUNE 16, 2009

E. CURTIS AMBLER ROOM

These minutes are not verbatim, but represent a summary of major statements and comments. For minutes verbatim, refer to audiotape on file in the Office of the Town Clerk. Audiotapes are retained for the minimum period required under the retention schedule as provided under Connecticut Law.

Chairman Block called the roll call at 7:00 p.m. and noted Commissioners Byer, Igielski, and Shapiro were present. Also present was Mr. Anthony Ferraro, Town Engineer.

ITEM III

ACCEPTANCE OF MINUTES

Regular Meeting of May 19, 2009

Commissioner Igielski noted the Commission could not act on the minutes tonight because there is not a quorum of members who were present at the May 19<sup>th</sup> meeting.

Motion made by Commissioner Igielski to table the item over to the July meeting and was seconded by Commissioner Byer. There was no discussion. Vote was 4 yes, 0 no and the motion was carried.

ITEM V

NEW BUSINESS: NONE

ITEM IV

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS: NONE

Chairman Block noted for the record that only four (4) voting Commission members were present tonight to act on any agenda item. The Commission's (Internal) Rules (and Procedures) requires four (4) yes votes to pass any action. Therefore, all members must vote yes to pass an action. The other option would be to for applicant to grant the Commission an extension of time to the July meeting.

Commissioner Igielski noted that Commissioner Byer, who was not present at the May meeting, could only vote if she states on the record that she has reviewed the minutes and studied and reviewed the plans and therefore is familiar with the item. Otherwise, she would have to abstain on all voting matters (related to the May meeting).

Commissioner Byer stated for the record that she would not be voting on any items tonight.

ITEM VI A

APPLICATION 2009-05 for 111 Golf Street

Mr. Stanley Dynia, GZA GeoEnironmental and representing the applicant (Indian Hill Country Club) and Mr. Mark Weston, Golf Course Superintendent appeared before the Commission.

Chairman Block noted for the record there are only three (3) Commissioners present who could vote on the item and four (4) votes are required to pass the item. He recommended that the applicant request a time extension.

Mr. Dynia for the record verbally requested a time extension to the July meeting and said he would follow up with a letter.

Motion made by Commissioner Igielski to table the item over to the July meeting and was seconded by Commissioner Shapiro. There was no discussion. Vote was 4 yes, 0 no and the motion was carried.

ITEM VI B

APPLICATION 2009-06 for 35 Budney Road

Commissioner Igielski noted (for the record) that the Commission had the same situation as with the previous item.

Mr. Ronald Bomengen, P.E., Fuss & O'Neill and representing the applicant appeared before the Commission and asked what would happen if a vote was taken on the application? Commissioner Igielski responded (for the record) there are only three (3) Commissioners present who could vote on the item and four (4) votes are required to pass the item. Therefore, the motion would fail (probably without prejudice) and a new application could immediately be filed. He recommended that the applicant request a time extension.

Mr. Bomengen for the record verbally requested a time extension to the July meeting and said he would follow up with a letter.

Motion made by Commissioner Igielski to table the item over to the July meeting and was seconded by Commissioner Byer. There was no discussion. Vote was 4 yes, 0 no and the motion was carried.

ITEM VI C

PERMIT 96-14 for Glen Oaks Condominiums for Pond Dredging

Ms. Sandy Martinik, President of the Glen Oaks Association, appeared before the Commission.

Mr. Ferraro entered the following remarks into the record:

- A. The application is a request to determine if the proposed activity (pond dredging to determine if liner is in need on repair) warrants an application or is approved as a maintenance activity under a previous Permit (96-14)
- B. Condition "I" of Permit 96-14 outlined a long term maintenance plan for the pond prepared by Bay State Environmental as outlined in the plan that was contained in a letter dated September 20, 1996 that was part of the application.

Recording Secretary Peter M. Arburr asked for the record who would over see the work for the Association? Ms. Martinik responded J.H. Land Management, who has a working relationship with the Association.

Chairman Block said the contractor should contact Mr. Ferraro to review the scope of work being proposed by the contractor.

Chairman Block asked if the Commission agreed that the (proposed) activity is allowed and can be handled administratively?

There was a general discussion among Commission members on the previous question (listen to audio tape for details).

Chairman Block said an addendum should be submitted explaining what is going to be done to naturalize the pond.

Ms. Martinik said it was her understanding that cat tails would be removed except that for a number that would be retained to maintain the integrity of the pond.

Chairman Block said if any evasive plants are found, they should be removed and the banks should be re-stabilized. The contractor should meet with Mr. Ferraro to review the scope of work and get his approval.

Commissioner Igielski noted that per Section 4.3 of the Regulations, a form should have been submitted to show that the activity is a permitted use and not an administrative action.

Mr. Ferraro noted that in his opinion the work can be done (without a permit).

Mr. Ferraro noted that he recently attended Segment II of the DEP training program for wetland Commissioners that dealt with Permit Conditions. He noted that it was recommended that a permit condition that would out live the life of the permit should not be included as a condition.

Commissioner Igielski suggested that the matter should be submitted to the Town Attorney for an opinion.

Chairman Block said he feels the permit is only for five (5) years (per a time frame noted in one of the conditions of Permit 96-14) and that the applicant should come back with a new application.

It was the consensus of Commission members that the permit had expired and a new application has to be submitted.

ITEM VI D

Permit 2006-26 Update by Mr. Michael Frisbie (Permittee)

Mr. Michael Frisbie, President of Hunter Development and) Permit holder entered the following remarks into the record:

- A. He has been working with ConnDOT and the State Traffic Commission to secure a permit for the entrance road way (onto East Cedar Street). The permit was recently received from ConnDOT .
- B. He has lost the tenants for the hotel (who lost financing for the project) and the restaurant (who backed out of the project).
- C. He has returned back to the TP&Z Commission to amend the approved plan. A public hearing will be held on the request.
- D. The proposal would be to install all infra-structure requirements in place except for the hotel. The gas station and retail space as part of the first stage.

Chairman Block asked what would be the condition of the site after the first phase work would be done? Mr. Frisbie responded:

- A. The hotel area would be left in its natural state.
- B. The remaining area would be graded with infra-structure improvements according to the approved plan.
- C. The area where the bank and restaurant would be built would be left as a lawn area.

Mr. Ferraro noted that a condition of the permit requires him (Mr. Frisbie) to come back to the Commission if any blasting would occur on the site.

Mr. Frisbie said he checked with the Town as to the start date of the permit. He was advised that it would start with the grading of the land, not the demolition of the building that was only taken down to the foundation.

Mr. Ferraro said that he had sent a letter to the permit holder advising him that the clock started with the demolition of the building. He said that he checked with the Building Department and was advised that the clock did not start with the demolition of the building,

Mr. Ferraro said he does now agree that work has not been started under the permit.

It was the consensus of Commission members that a new letter to be sent out to advised the permit holder that work has not started under the permit.

Commissioner Igielski said that if a new application was required for blasting, it could not be acted on the same night it was presented to the Commission because the Regulations allow for a fourteen (14) day period for the public to submit a petition to hold a public hearing.

#### ITEM VI F

##### Revisions to Rules and Procedures

Mr. Ferraro noted that he had submitted a copy of the updated “Draft” of the Commission’s Internal Rules and Regulations to the Town Attorney for review and comment. He received an e-mail response today stating that he (Town Attorney) could not find anything to comment on down to and including grammar. The Town Attorney also noted that Section 3 complies with all requirements for public meetings.

Commissioner Igielski noted that the Commission could not act on the item tonight because 2/3rds of the Commission or five (5) votes is required to pass the item.

Motion made by Commissioner Igielski to table the item over to the July meeting and was seconded by Commissioner Shapiro. There was no discussion. Vote was 4 yes, 0 no and the motion was carried.

#### ITEM VII

##### PUBLIC PARTICIPATION ON NON-AGENDA ITEMS: NONE

#### ITEM VIII

##### COMMUNICATIONS AND REPORTS

Mr. Ferraro noted that under guidance from the Commission, he sent a letter to the property owner at 1164 Willard Avenue noting that continued non-action relative to the “Cease and Desist Order” from the Commission could result in the levy of possible fines. He subsequently received a call from an attorney verbally informing him that his client is perusing a firm to develop a plan. Mr. Ferraro noted that he received a letter today from the attorney stating that Peter Flynn has been retained to develop a plan to rectify the wetland. The attorney asked for time to prepare an application. Chairman Block noted the property owner has had 60 days plus an additional month (July meeting). He (Block) suggested sending a letter to the attorney noting that per a Town Ordinance, the Commission could levy fines totaling up to a maximum \$1,500dollars. It was the consensus of Commission members following a discussion (listed to audio tape for details) on Chairman Block’s suggestion to send a letter to the attorney stating that the Commission could consider taking action (at the July meeting). It was the consensus of Commission members to send a letter.

Motion made by Commissioner Igielski to adjourn meeting at 7:58 p.m. and was seconded by Commissioner Byer. There was no discussion. Vote was 4 yes, 0 no and motion was carried.

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Peter M. Arburr, Recording Secretary

Commission Members

Tayna Lane, Town Clerk

Town Manager John Salamone

Edmund Meehan, Town Planner

Councilor Myra Cohen

Chairperson, Town Plan and Zoning Commission

Anthony Ferraro, Town Engineer

Ben Ancona Jr., Esquire, Town Attorney

Lucy Robbins Wells Library (2)