



City of Ansonia  
**PLANNING AND ZONING COMMISSION**

November 28, 2011

Regular Meeting

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11 DEC -5 AM 8:36

*Madelaine H. Boltone*  
TOWN AND CITY CLERK  
ANSONIA, CONNECTICUT

Present: Bart Flaherty, Chairman  
Michael Bettini  
Douglas Furtek  
Jeffrey Lawlor  
Jared Heon  
James Martin  
Ed Phipps

Others Present: Fred D'Amico, City Engineer  
Oswald Inglese, Planning Consultant  
James Tanner, Zoning Enforcement Officer  
Thomas Welch, P&Z Counsel

The regular meeting of the Ansonia Planning & Zoning Commission was called to order at 7:30 p.m. by Chairman Flaherty.

All present rose and Pledged Allegiance to the Flag.

The secretary called the roll. There was a quorum present.

### **Approval of Minutes**

Mr. Phipps made a motion to accept as written and place on file the minutes of the October 24, 2011 Regular Meeting & Public Hearing and the November 14, 2011 Public Hearing. Mr. Furtek seconded. All in favor, so carried.

### **Approval of Bills**

Mr. Phipps made a motion to pay Oswald Inglese's Invoice in the amount of \$1612.50 if found to be correct. Mr. Lawlor seconded. All in favor, so carried.

Mr. Heon made a motion to pay Attorney Tom Welch's Invoice in the amount of \$2761.15 if found to be correct. Mr. Martin seconded. All in favor, so carried.

## Correspondence

Mr. Phipps made a motion to accept all of the correspondence received, dispense with the reading, and place them on file. If a member requests one read or acted upon the correspondence will be brought up individually. Mr. Lawlor seconded. All in favor, so carried.

Chairman Flaherty said he received a Memo from the Comptroller concerning the budget for 2012. He said he was going to go with the same budget the commission now has. He said he would go to BOAT if he has to with the permission of the commission.

Chairman Flaherty said there is one communication that cannot be considered because it has to do with the public hearing.

1. Federal Communication Commission re: Section 106 filings
2. P&Z to Ray Tingley re: Thank You dated. 11/16/11
3. Nelson Tcharirides re: Castle Lane Subdivision dated. 11/16/11
4. Nicholas Macero re: Release of Bond for Gracie Lane dated. 10/24/11
5. Fred D'Amico to P&Z re: Release of Bond for Denita Estates/Gracie Lane dated. 11/16/11
6. Thomas Welch re: John Marcucio dated. 10/31/11
7. Oswald Inglesse to Subcon, Inc. (William Taylor) re: Subway Restaurant, 350 W. Main St. Dated. 11/23/11

**Mark Romano (Castle Lane Developers LLC)/ re: request for 23 lot subdivision known as Castle Lane Estates Subdivision at Castle Lane and 26 Gardner's Lane (8/29/11)  
Public Hearing: 9/19/11, continued 9/26/11, continued 10/24/11**

Mr. John Sponheimer, Attorney, Mr. Mark Romano, Developer and Mr. Dana Freeman, Attorney were present.

Chairman Flaherty said the original application was sometime in August – August 29<sup>th</sup> and we held a number of hours of public hearing and the hearing has been closed. The information before us is such to make a decision. We have a memo from Ozzie dated November 23<sup>rd</sup> that everyone has and this subdivision, the record subdivision asks for a waiver of our regulations concerning the length of the road and a waiver concerning the width of the road. We received communication from Seymour Planning and Zoning a couple of letters, we received numerous comments from the applicant, numerous comments from members of the public and I think it is time to discuss this.

Mr. Bettini said Mr. Chairman, actually at the public hearing I thought we done quite a bit of discussion on the safety of the roadway. Frankly I do have a great amount of concerns with the safety with the message we received from Seymour relative to their unhappiness with the proposed subdivision also I think the road width and the length of the road is problematic especially when it comes to snow removal and safety vehicles so I am a little concerned with those aspects.

Chairman Flaherty said anyone else.

Mr. Martin said Mr. Chairman I have concerns also with the length of the road and problems with the width of the road and the entrance way to it with no access from Ansonia also.

Mr. Heon said I have to agree, I mean the length of the road is definitely a concern and the width and the sight line and the existing road itself. Just going up there at night now it is difficult and I just think that further expansion on that would be troublesome. I think the regulation, the regulations that we have now in place meant to prevent something, from creating something troublesome. I think that if we did this I think we would be creating more of a problem than being suited. I think it is a public health and safety issue.

Chairman Flaherty said Jeff do you have anything.

Mr. Lawlor said yes, I am concerned about the street also and the safety issue.

Mr. Phipps said I go up there almost every other day driving by and it's not a good site. The road width, I've come in from both directions, it's horrible and there is no sidewalks there. The road is small.

Chairman Flaherty said OK, well Ozzie's compliance with the Subdivision Regulations, he says to comply you have to have two waivers of the Subdivision Regulations. The length of the road and the width of the road.

Chairman Flaherty read from Mr. Inglese's Memo. He said Mr. Inglese is also questioning if the lots meet the existing topography. He read the following from the memo: "As of this writing, a map to verify compliance requested of the applicant during the public hearing has not been submitted."

Chairman Flaherty read from Mr. Inglese's Memo: "While the percentage of the proposed open space land offered (13%), the impact of the proposed detention basin and related land re-shaping within the open space results in a net reduction in the effective open space to serve the development. He said I have continually voiced my concern that this trail down that hill to the park is OK for older kids but if you have young children up there I don't know where they are going to play. They are not going to play near that detention pond. So that is inadequate as far as – it is problematic.

Mr. Bettini said from that perspective as long as the Chairman has concerns relative to the property and the safety for young children falling off the terraces. The slope looks like it is about 25% , 26%.

Mr. Inglese said the roadway – the land.

Mr. Bettini said no, on the property, the slopes. That is all going to be terraced and those terraces present safety problems.

Chairman Flaherty read from Mr. Inglese's Memo: there's intermunicipal issues, "No direct access from the Ansonia roadway network is provided. Access to the proposed 23 lots is over the Seymour road network through a section of existing Castle Lane which is narrower in paving width and which appears, from testimony during hearing sessions, to lack adequate drainage, safe sight distances, and other amenities. As proposed, it is questionable the ability of furnishing from Ansonia appropriate emergency equipment, fire, police and ambulance services as well as school bus services."

Chairman Flaherty continued reading: "Topographic Constraints. In July 1988 the King's Mark Environmental Review Team completed a review of the area. In April-June 2011 the Natural Resources Conservation Service provided updated 3-part topographic, soils and hydrologic information. The reports raised concerns about the ability of the overall site to sustain development activities due to existing steep topography, its bedrock geology, its increase in runoff, its susceptibility to accelerated erosion and other factors."

He continued reading: To mitigate the Erosion and Sediment Control that have to be substantial land alteration will be necessary to develop the subdivision. Given current economic conditions, the resulting land disturbance would remain un-stabilized over an extended period of time. To mitigate the impact of this prolonged development period the subdivision should be staged and planned so as to mitigate detrimental impact on the site and surrounded areas."

Chairman Flaherty read the following from the Memo: The initial application does not include street sidewalks and is absent of any tree planting scheme to enhance neighborhood desirability and to compensate for the deforestation caused by basin and road construction, and housing development.

Chairman Flaherty read the following from Mr. Inglese's Memo: "Land Suitability. Sections 1.3 and follow-ups in Section 3.3 of the Subdivision Regulations provide guidelines for the design and development of subdivision plans. In essence, it prescribes to the Commission that land to be developed should be suitable for the intended purposes and safe and secure for its ultimate use and, in this case, its residents. These principles reflect those contained in the Connecticut General Statutes under Section 8-25, Chapter 126."

He continued reading the Memo from Mr. Inglese: "Submission of Additional Plans. The public hearing sessions included substantial public participation and comments all related to the original set of plans. Comments by adjacent municipality, the Regional Planning Agency and other agencies were also based on the original set of plans. The applicant has recently submitted several revised drawings reflecting changes and corrections raised during the public hearings sessions. One of the drawings recently submitted reflects a substantial departure from the original subdivision layout showing a proposed through road instead of a dead-end road. Since it

appears that a new and/or different approach is under consideration, it would be prudent and appropriate that the current subdivision application be withdrawn and that a new application be submitted. Thus requiring that a new procedure be initiated including that a new public hearing be held.”

Chairman Flaherty said I think what we have to do is act upon the waivers first and foremost on the length of the road if there is support to grant the waiver for the length of the road and the width of the road or not. This determines whether the subdivision can go forward. Without the waivers I think the subdivision might have a problem, I’m not sure what the commission thinks but that’s the report that we have in front of us.

Mr. Bettini said we do have to vote on the waivers.

Chairman Flaherty said yes we do, we absolutely. It’s either up or down and it requires five votes.

Mr. Bettini said I think we have to vote on the waivers individually.

Chairman Flaherty said each one, yes.

Mr. Bettini said I think the first one would be to vote on the length and the second one would be to vote on the width.

Chairman Flaherty said correct.

Mr. Bettini said do we need a motion to vote on it.

Chairman Flaherty said we can’t vote without a motion. Commissioners’ is there any further discussion on this.

Mr. Inglese said you need a motion to deny the waivers.

Chairman Flaherty said yes correct or to approve the waivers one or the other.

Mr. Martin made a motion to deny the waiver on the length of the proposed road. Mr. Bettini seconded.

Chairman Flaherty said I have a motion and a second. Is there any discussion.

Mr. Heon said it should cite the Section Ozzie had.

Mr. Inglese said the section you are dealing with is item C-2 lower case b that is on the length of the road.

Chairman Flaherty said OK we have a motion and second. All in favor of the motion to deny the waiver on the length of the road please signify by saying aye.

Commissioners: Aye

Chairman Flaherty said anyone against this motion. Anyone abstain for cause.

Mr. Furtek said I abstain, I was unable to, as you know I was ill and I was unable to attend all the meetings.

The Chair declared the motion passed with one abstention. Doug Furtek abstained for cause.

Chairman Flaherty said now the width of the road.

Mr. Bettini made a motion to deny the waiver on the width of the road.

Chairman Flaherty said that section.....

Mr. Inglese said section 3.6.8.

Mr. Martin seconded.

Chairman Flaherty said I have a motion to deny the waiver for the width of the road and a second. Is there any discussion. All in favor to deny the waiver on the width of the road please signify by saying aye. Anyone opposed. Abstained.

The Chair declared the motion passed. Doug Furtek abstained for cause.

Chairman Flaherty said the third thing we should vote on is the Subdivision. And if we don't have the waivers we would have to vote to deny the subdivision.

Mr. Bettini made a motion to deny the Subdivision due to the lack of the waivers and other considerations.

Chairman Flaherty said there are other considerations, the testimony from Seymour and the people that the road is inadequate, tremendous amount of problems it's down to 17 feet in one area, the plans are incomplete as far as that additional submittal there is an awful lot missing on there and other things that Ozzie noted.

Chairman Flaherty said so I have a motion to deny the Subdivision and a second.

Chairman Flaherty said all those in favor.

Commissioners said Aye.

Chairman Flaherty said anyone opposed, anyone abstain.

Mr. Furtek abstained.

The Chair declared the motion passed with one abstention.

Mr. Phipps said I abstain too.

Chairman Flaherty said you abstain too, OK.

The chair declared the motion passed with two abstentions. Doug Furtek, Ed Phipps

Chairman Flaherty said and the site plan also, we don't have a subdivision I think we need to make this full circle so that we vote on the site plan that also accompanying the subdivision.

Mr. Martin made a motion to deny the Site Plan application because there is no subdivision. Mr. Phipps seconded.

Chairman Flaherty said there is a motion and a second. Is there any further discussion. All those in favor, please signify by saying Aye.

Commissioners said Aye.

Chairman Flaherty said anyone opposed, anyone abstain.

Mr. Furtek abstained.

The Chair declared the motion passed with one abstention and the site plan denied. Doug Furtek abstained.

Chairman Flaherty said Mr. Romano the waivers were denied and the subdivision was denied, so there will be a notice in the paper regarding that fact and then there is a 15 day appeal period.

Mr. Inglese said from the date of publication.

Chairman Flaherty said thank you very much gentlemen.

Copy of Oswald Inglese's memo is attached.

**EBI Consulting re: Telecommunications facility installation at 501 E. Main St.**

There is no one present.

Chairman Flaherty said that the Commission received the communication from EBI Consulting regarding location of a communications facility to be located at 501 E. Main St. He said he

forwarded this on to Mr. Inglese for his review. Mr. Inglese has prepared a memo for the Commission which was forwarded to the members.

Mr. Inglese said he did use the current aerial photos of the site. There are some distortions. When you look at it from the top the antenna that they are proposing is next to the penthouse that is to the back of the Obsidum if you are standing back across the street you can't see it. You would have to be either flying over it or be on top of the hill on the opposite side of the street to be able to see it. If you look from across the street from the Obsidum you can't see it. It is obscure from all around even from the side of the building and the supporting facility.

Mr. Inglese continued explaining to the Commission members his findings on the location of the proposed antenna. He said they are seeking a comment on any impact this antenna would have on the historic district on Main Street. The antenna will be around for a long time. The maximum height of this antenna is 20 feet.

Mr. Heon said he is concerned that the antenna will be mounted next door on a building and you would not see it however antennas are mounted straight up. This is a concern. He asked how high the antenna would go up. He asked if the building was engineering to support this type of antenna. He said there are multiple antenna's on the Penthouse. Mounted on the actual building and painted the color of the building.

Commission members discussed the location of the building (Process Lab) and the location of the proposed antenna with regard to the disruption of the Historic District and whether or not the antenna would be seen by the public from the street.

Mr. Bettini asked if this company would have to get a building permit. He said they are disturbing the character of the neighborhood in this district.

Chairman Flaherty said according to Mr. Inglese study from the ground level looking around you are not really going to see it from Main Street or East Main St. and if you put a six (6) foot high fence around it.

Mr. Heon said they may not put a fence because they need to radiate waves.

Mr. Inglese added that the fence would be wood and the nails may interfere with transmission. They would have to use plastic.

Commission members held a discussion on other locations in the City where antennas are presently located.

Chairman Flaherty said this is on 501 East Main St. what is the commission's pleasure. Accept this recommendation and send them a letter asking them to put a barrier or disallow it. What is the commission's pleasure.

Mr. Heon said this request isn't even from the building owner. It's from a consulting group.

Mr. Bettini said he feels the Commission should get more information on the antenna because we don't really know how high, etc. He said Mr. Heon is right that the commission should contact the owner of the building.

Mr. Inglese said he had prepared a correspondence responding to this inquiry.

Chairman Flaherty asked about the communication received from Federal Communication commissions.

Mr. Inglese said he didn't know it was sent by the Communications commission regarding Section 106.

Mr. Heon said it has been at many public meetings including the Ward Meetings there have been discussions about this property being in Blight and not maintained and a question of abandonment and contaminated and will be torn down. I don't know if you want further development on this site. I know this specific building has been mentioned in public meetings so I think we need to table it and do a little more research to it.

Chairman Flaherty asked Mr. Heon what he would like to know.

Mr. Heon said the following:

1. Buildings owner's intention with regard to the condition of the building.
2. Is the Building's owner in support of this.
3. Were they able to put a façade type fence around it.
4. Is there going to be a generator associated with this type thing if the power goes out.
5. That's noise - is it going to be underground. Is it going to be on top.
6. The utility powering it.

Mr. Bettini asked if this property is on the list of blighted buildings. If the building is a problem for the town we should not be saying yes to anything on it until we find out.

Mr. Tanner said it is a blighted building but it is not listed on the blight list yet.

Mr. Heon made a motion to table this request. Mr. Phipps seconded. All in favor, so carried.

Mr. Heon made a motion to send a letter to the building's owner of record and to EBI Consulting asking the following questions:

1. Potential building and screening façade.
2. Generator and how it is going to be powered.
3. How much noise will be generated and emitted by this generator as an addition to this building on Main St.
4. Status of the building (it would have to be up to the Fire Code and the Building Code.

5. Mr. Inglese should investigate the FCC Section 106 referral about the historical application to the FCC.
6. Mr. Inglese should find out what this letter from the FCC (section 106) is.
7. Mr. Inglese should send a letter to the EBI Consulting and the Building Owner asking about the screening façade around facility.
8. Ask the Historical Commission.
9. How it will affect the Historical District.
10. Their Plan for Construction of this facility and the antennas.
11. They are changing the use of that building.

Mr. Phipps seconded. All in favor, so carried.

Chairman Flaherty asked Mr. Inglese to check into the FCC letter and Section 106.

**Nicholas Macero re: Request to release road bond for Gracie Lane**

There was no one present.

Chairman Flaherty said a letter was received from Nicholas Macero and from Fred D'Amico, City Engineer regarding the release of the bond.

Mr. Phipps made a motion to release the road bond for Denita Estates Subdivision on the recommendation of the City Engineer. Mr. Heon seconded. All in favor, so carried.

Mr. Phipps made a motion to send a letter to the Board of Aldermen stating the development has met all requirements of the Planning and Zoning Commission for the approved subdivision plans. All of the monuments are installed and the street is ready to be accepted. Mr. Heon seconded. All in favor, so carried.

**Regina DeFrank/Scott Farquharson re: request for Site Plan approval for an In-Law Apartment located at 8 Caroline Street**

Mr. Scott Farquharson is present.

Chairman Flaherty said Caroline Street is in the A zone. This apartment can only be an In-Law apartment and not an accessory apartment.

Mr. Farquharson said he understands that he just didn't know what the Commission called it. He said there are two sisters who will live in the house. One in the In-Law apartment and the other in the main house.

Chairman Flaherty said the In-Law apartment is allowed and it will have to be recorded on the land records. It ceases to exist once the unit is vacated by the relative. It cannot be rented as a two family dwelling. The homeowner must register every 3 years with the Zoning Official.

Mr. Farquharson said he was aware of these regulations.

Mr. Tanner said he has no problem. It is allowed in the A zone and as long as the setbacks are within the regulations he should be OK.

Mr. Phipps made a motion to approve with conditions the request for an In-Law apartment to be located at 8 Caroline Street. Mr. Lawlor seconded. All in favor, so carried.

**SPM Realty LLC & Don Schmidt re: request for Site Plan approval for Coastal Carriers for an Exit Driveway on their site located on 12-14 Riverside Drive**

Mr. Don Schmidt, Mr. John Pruzinsky and Mr. Scott Meyers were present.

Mr. Meyers explained to the Commission members the proposal for another exit from the Coastal Carrier's site located at 12/14 Riverside Drive. He cited the reasons that Coastal Carrier wants to add an additional exit from the property. There are some issues with the trucks having to cross through the employee and visitor parking lot to exit the existing exit driveway. It would be easier if the trucks could exit drive on one side and make a right hand turn out of the property onto Riverside Drive.

Mr. Schmidt said the trucks would be exiting out in a straight line and it would be easier especially during the winter months with snow and ice.

Chairman Flaherty asked Mr. Schmidt to explain where the trucks would be parked.

Mr. Schmidt said they would be put on one side. The parking configuration changes with snow. They have to be reasonable with the snow and ice. It is dangerous exiting through the existing driveway and they can't see through the entrance. If they exit straight out they have sight coverage of the road.

Mr. Inglese questioned the turning radius in that area where the proposed driveway will be located.

Mr. Schmidt said they have enough room to turn the truck in that area.

Chairman Flaherty asked if the exit would have signs stating ONE WAY – DO NOT ENTER.

Mr. Schmidt said yes, that is not an issue we don't want anyone driving in through that driveway.

Mr. D'Amico said he will put a turning radius template on the plans to see if the trucks can make the turn.

Mr. Meyers discussed the turning radius from the proposed exit driveway.

Mr. Schmidt said their goal is to get this driveway paved before the asphalt plants close the first snow.

Mr. D'Amico said that both he and the Zoning Enforcement Officer have been to the site and there has been a lot of fill brought in to the site without a permit or approval. He asked if these are the existing contours.

Mr. Meyers said these were taken last month.

Mr. D'Amico said he has to check and see what the original contours were before the fill was brought in. He said that they will need a Special Permit for the fill.

Chairman Flaherty said these are the issues that staff has raised regarding this site that must be resolved.

1. The turning radius
2. The amount of fill brought in
3. Complaints that the elevation of the property has been raised and there is run off onto the neighboring property.

Chairman Flaherty said there has been a significant grade change on this site and the Inland Wetlands Commission Permit requires you go to them if there is any change. P&Z should have been apprised of this change as well as IWC. You put millings on top of the site.

Mr. Schmidt said we had a serious problem with water running toward us and our trucks. We were approached by a contractor to accept his millings so we did. We didn't know.

There was discussion on where the water runoff was flowing to from the Coastal Carrier site. Mr. Schmidt said that the water was flowing to the road. He said from the road it goes to the back of the property.

Chairman Flaherty said the commission has to determine the original elevations for the site and how much fill was brought in to the site to change the grade. They will probably require a Special Permit for the fill. Also Coastal Carriers will have to look at their IWC Permit and any change has to go back to the Inland Wetlands Commission for their approval. The curb cut will have to be approved.

Mr. D'Amico said they are over 100 feet from the wetlands but because of the amount of filling they should go back to Inland Wetlands Commission for the fill. He asked about the curb cut.

Chairman Flaherty said there is not an issue with the curb cut as long as it meets the City Engineers requirements and approval. He said that Coastal Carriers did fill and put the millings down and that has to go before Inland Wetlands. Planning & Zoning can't approve it. He said the commission can empower the City Engineer, Fred D'Amico to **approve the curb cut only** and provide a written report the commission.

Attorney Welch said the commission can approve only the application for the curb cut and the fill must come back to the Commission.

Mr. Tanner said the amount of millings and whatever else is there is four (4) feet in elevation change. The millings can't be used as fill so the entire amount cannot be used as fill. That is the sticking point with Inland Wetlands Commission and the DEP.

Mr. Phipps made a motion to approve the **curb cut exit only** with the condition that the City Engineer Fred D'Amico give a final approval in writing to the commission for the turning radius out of the exit onto Riverside Drive. Mr. Heon seconded.

Chairman Flaherty advised Mr. Schmidt that they must come back to the Planning and Zoning Commission to resolve the issue of the fill on the property and the Zoning Enforcement Officer will issue a Cease and Desist if they do not go to Inland Wetlands Commission.

**Referral: City of Derby re: Zone Text change to allow by Special Exception animated signs**

Mr. D'Amico explained to the Commission members what the proposed text change means with regard to signs.

Mr. Tanner said there is this type of sign along Rt. 95 and Rt. 8.

Commission members raised many questions and concerns regarding the use of animated signs.

Mr. Martin made a motion to send a letter to the City of Derby regarding the Section 8-24 referral for a Zone Text change to permit by special exception animated signs. Mr. Phipps seconded. All in favor, so carried.

**Decision: Amendment to Schedule B – Permitted Uses**

Chairman Flaherty said that the Commission held a public hearing this evening to hear the proposed change to the Zoning Regulations. The change is to bring our regulations into compliance with the Federal and State Statues.

Mr. Phipps made a motion to adopt the change to the Zoning Regulations for Schedule B – Permitted Uses as proposed. Effective Date: 12/15/11 Mr. Heon seconded. All in favor, so carried.

The change to the Zoning Regulations that was adopted are:

Schedule B – Permitted Uses

Medical and dental clinics for the performance of dentistry and healing arts for patients not resident on the premises.

LI – Site Plan/Special Exception (S)

Effective: 12/15/11

**Reports: City Engineer**

Mr. Fred D'Amico was present:

Violations:

Kiely's Lane

Mr. D'Amico said that Kiely's Lane has not been a problem. The plans have been drawn up to improve the area but they have not been implemented as yet.

Shell Service Station

Mr. D'Amico said the owner of the Shell Service Station hasn't put the curb cut back in place as yet. He put it in when he first finished the project and then he removed the curb cut because he thought he needed the curb cut. I have spoken with him and advised him that he must put the curb cut back.

Chairman Flaherty asked if a Certificate of Occupancy was issued to him.

Mr. Tanner said no there is no Certificate of Occupancy because he has not submitted the asbuilts so there is no Zoning Compliance and without Zoning Compliance there is no Certificate of Occupancy. He is operating without a C.O.

Mr. Martin said he either fixes it or you stop him from pumping gas. It has been one month since we last discussed this issue. It was part of his condition of approval.

Commission discussion was had regarding the Shell Station's owner's non-compliance with the Approval Conditions.

Mr. Phipps made a motion that the Zoning Enforcement Officer James Tanner speak to the Owner of Record that he puts in the curb cut or the ZEO will issue a Cease and Desist order and proceed with legal action at his disposal. Mr. Heon seconded. All in favor, so carried.

Mr. Bettini questioned whether there was enough parking spaces because of the addition of the gas filling pumps.

Mr. Tanner said that there is enough parking spaces on the site.

### Valentine Drive

Chairman Flaherty asked Mr. D'Amico about the retaining walls on the site behind two homes on Valentine Drive. He asked if they are engineered walls.

Mr. D'Amico said that four (4) feet is the maximum for an un-engineered retaining wall.

Chairman Flaherty said these walls have huge boulders piled one on top of the other with voids between them and smaller rocks on the bottom of the large boulders. They are not the most well constructed walls to hold back a hill. There is a safety issue with this type of wall construction. He said the walls don't look too stable he said that any wall over 4 feet should be an engineered wall per our regulations.

Mr. D'Amico said the rocks and boulders are just piled on top of each other. He will go out to the site and take a look.

Mr. Phipps made a motion to have the City Engineer Fred D'Amico contact the developer of the Subdivision with the intent of checking on the construction of these walls. Mr. D'Amico will report back to the commission in writing. Mr. Heon seconded. All in Favor, so carried.

### **Reports: Zoning Enforcement Officer**

Mr. James Tanner is present.

### Violations

Mr. Tanner said there are no new violations.

### Variances

Mr. Tanner said there is one variance.

1. M&L Properties, 420 Main Street for 24'x90' storage shed.

Commission discussion was had regarding the variance for a storage shed in the City Center area and that there is no hardship.

Mr. Heon made a motion that a letter be sent to ZBA recommending denial because a hardship does not exist. There is no evidence of hardship from the statement listed under hardship and it

is non-conforming to the City Center Plan over-lay. The storage shed's typical use would be a support of construction equipment which is not allowed on that site. Granting this variance maybe contrary to the recent Court finding. Mr. Phipps seconded. All in favor, so carried.

### **Reports: Planning Consultant**

Mr. Oswald Inglese is present.

Mr. Inglese said the committee hasn't met as yet. He is waiting for Mr. Heon to set up a meeting.

### **Any other business to come before the Commission**

#### 2012 Meeting Schedule

Mr. Phipps made a motion to adopt the 2012 meeting schedule as presented. The P&Z meetings will be held on the last Monday of the month at 7:30 p.m. Mr. Lawlor seconded. All in favor, so carried.

#### December 2011 Meeting

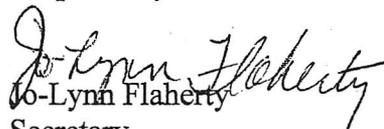
The December meeting is scheduled on the Christmas Holiday.

Mr. Bettini made a motion to change the December 26, 2011 meeting of the Commission to Monday, December 19, 2011 at 7:30 p.m. Mr. Phipps seconded. All in favor, so carried.

### **Adjourn**

Mr. Phipps made a motion to adjourn the meeting at 9:10 p.m. Mr. Heon seconded. All in favor, so carried.

Respectfully submitted,

  
Jo-Lynn Flaherty  
Secretary

City of Ansonia  
**PLANNING AND ZONING COMMISSION**

253 Main Street  
Ansonia, Connecticut 06401

RECEIVED FOR FILE

11 NOV 28 AM 11:53

*Madeline N. Bottome*  
TOWN AND CITY CLERK  
ANSONIA, CONNECTICUT

Oswald Inglese  
Planning Consultant

**MEMORANDUM/REPORT**

To: **Ansonia Planning & Zoning Commission**

From: Oswald Inglese, Planning & Zoning Consultant

Subject: **CASTLE LANE ESTATES SUBDIVISION**

Date: November 23, 2011

Copies:

This memorandum/report briefly summarizes my observations following review of material submitted by the applicant as part of the original application; information and reports received from official regional and municipal agencies and from abutting communities; and other information gathered during the public hearing sessions held in connection thereto.

**Compliance with the Subdivision Regulations.** As submitted, the application does not comply with the requirements of the Subdivision Regulations regarding length of permanent dead-end road, and width of proposed paved travelway. To comply, the applicant seeks two waivers of the Subdivision Regulations<sup>1</sup>. If the waivers are granted, the extended length of the dead-end road would be increased by more than 300% relative to the Subdivision Standards (i.e. from maximum of 400 feet to more than 1,800 feet in length). The proposed roadway paved width would be 26 feet versus the 30 feet required by the Regulations. In my opinion, these waivers are substantive.

**Compliance with the Zoning Regulations.** It is questionable if the lots meet the existing topography maximum slope limitations prescribed in the Zoning Regulations<sup>2</sup>. As of this writing, a map to verify compliance requested of the applicant during the public hearing has not been submitted.

**Proposed Open Space.** While the percentage of the proposed open space land offered (13%) complies with the criteria in the Subdivision Regulations<sup>3</sup>, the impact of the proposed detention basin and related land re-shaping within the open space results in a net reduction in the effective open space to serve the development. No additional open space has been offered to compensate.

**Intermunicipal Issues.** No direct access from the Ansonia roadway network is provided. Access to the proposed 23 lots is over the Seymour road network through a section of existing Castle Lane which is narrower in paving width and which appears, from testimony during hearing sessions, to lack adequate drainage, safe sight distances, and other amenities. As proposed, it is questionable the ability of furnishing from Ansonia appropriate emergency fire, police and ambulance services as well as school bus services to the homesites.

**Topographic Constraints.** In July 1988 the King's Mark Environmental Review Team completed a report for the same site at the request of the Ansonia Inland Wetlands Commission. In April-June 2011 the Natural Resources Conservation Service provided updated 3-part topographic, soils and hydrologic information. The reports raised concerns about the ability of the overall site to sustain

<sup>1</sup> See Subdivision Regulations, Schedule C-Design Standards, Item C-2 b, and Sec.3.6.8

<sup>2</sup> See Section 320 of the Zoning Regulations

<sup>3</sup> See Section 3.11 of the Subdivision Regulations.

development activities due to existing steep topography, its bedrock geology, its increase in runoff, its susceptibility to accelerated erosion and other factors.

**Erosion and Sediment Control.** As proposed, substantial land alteration will be necessary to develop the subdivision. Given current economic conditions, the resulting land disturbance would remain un-stabilized over an extended period of time. To mitigate the impact of this prolonged development period the subdivision should be staged and planned so as to mitigate detrimental impact on the site and surrounded areas.

**Development Amenities.** The initial application does not include street sidewalks and is absent of any tree planting scheme to enhance neighborhood desirability and to compensate for the deforestation caused by basin and road construction, and housing development.

**Land Suitability.** Sections 1.3 and follow-ups in Section 3.3 of the Subdivision Regulations provide guidelines for the design and development of subdivision plans. In essence, it prescribes to the Commission that land to be developed should be suitable for the intended purposes and safe and secure for its ultimate use and, in this case, its residents. These principles reflect those contained in the Connecticut General Statutes under Section 8-25, Chapter 126 of the CGS.<sup>4</sup>

**Submission of Additional Plans.** The public hearing sessions included substantial public participation and comments all related to the original set of plans. Comments by adjacent municipality, the Regional Planning Agency and other agencies were also based on the original set of plans. The applicant has recently submitted several revised drawings reflecting changes and corrections raised during the public hearings sessions. One of the drawings recently submitted reflects a substantial departure from the original subdivision layout showing a proposed through road instead of a dead-end road. Since it appears that a new and/or different approach is under consideration, it would be prudent and appropriate that the current subdivision application be withdrawn and that a new application be submitted. Thus requiring that a new procedure be initiated including that a new public hearing be held.

#### **Summary of Comments and Recommendations.**

1. Recommend that the waivers of the Subdivision Regulations requested be denied.
2. Recommend that a development alternative with due consideration to the number of lots, accessibility, erosion control, slope development and related constraints and issues be considered.
3. Recommend that the present subdivision plans be withdrawn by the applicant or the application be denied.

Respectfully submitted

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<sup>4</sup> Section 8-25 of the Connecticut General Statutes relates, in part, that: "Such regulations shall provide that the land to be subdivided shall be of such character that it can be used for building purposes without danger to health or the public safety, ... and that the proposed streets are in harmony with existing or proposed principal thoroughfares... and so arranged and of such width, as to provide an adequate and convenient system for present and prospective traffic needs."