



City of Ansonia

PLANNING AND ZONING COMMISSION

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Elizabeth A. Lynch
Asst. TOWN AND CITY CLERK
ANSONIA, CONNECTICUT

August 27, 2012

Regular Meeting

Present: Bart Flaherty, Chairman
Michael Bettini
Jared Heon
Jeff Lawlor

Absent: Doug Furtek
James Martin

Others Present: Oswald Inglese, Planning Consultant
Fred D'Amico, City Engineer
James Tanner, Zoning Enforcement Officer
Joan Radin, Alderwoman 5th Ward

The Regular Meeting of the Ansonia Planning and Zoning Commission was called to order at 7:36 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. Heon made a motion to accept as written and place on file the minutes of the July 30, 2012 Regular Meeting. Mr. Bettini seconded. All in favor, so carried.

PZ 082712

Approval of Bills

Mr. Heon made a motion to pay Oswald Inglese's Invoice # 132 in the amount of \$168.75 if found to be correct. Mr. Bettini seconded. All in favor, so carried.

Mr. Heon made a motion to pay Attorney Tom Welch's Invoice dated 7/2/12 in the amount of \$875.30 if found to be correct. Mr. Bettini seconded. All in favor, so carried.

Correspondence

Mr. Heon 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. Bettini seconded. All in favor, so carried.

1. Welch, Teodosio, Stanek & Blake, LLC re: Mohammed Mansur dtd. 7/30/12
2. Ct. DEEP re: Notice of Tentative Determination to approve City of Ansonia NPDES Permit Renewal App # 201006935
3. Kevin Blake, Corp. Counsel re: Recovery Network Program, Inc. Claim # 7-12-803
4. Welch, Teodosio, Stanek & Blake, LLC re; Castle Lane Dev. LLC Waiver of conflict dtd. 8/23/12
5. P&Z to Michael Schryver, PWD Supt. re: Trees along Maple St. to Franklin St. (RT 334) dtd. 8/6/12
6. Kevin Blake, Corp. Counsel re: Angela Diaz re: Claim # 6/12/800 dtd. 8/2/12
7. ZBA re: Appeal of ZEO decision by Jerney Shulick, 53 Woodbridge Ave.
8. Board of Aldermen re; Referral 8-24 Metro PCS Massachusetts, LLC dtd. 8/27/12

Fence Regulation - Decision

Chairman Flaherty said the commission has been discussing a fence regulation for a year. They have discussed extensively examples from other communities. He said ordinarily he doesn't like to act on something the same night as the public hearing but the commission has spent a considerable amount of time considering this proposed amendment. The proposal is to disregard the old section in the Zoning Regulations and insert a new section 330.4 and 330.5. He asked the commissioners if there was any discussion on the new sections that we just held a public hearing on.

Mr. Bettini made a motion to adopt the new section 330.4 and the new section 330.5 and remove the existing sections 330.4 and 330.5. The effective date to be 15 days after publication. Mr. Lawlor seconded. All in favor, so carried.

The amendments are as follows:

330.4. **General Requirements.** As used in this subsection, fences shall include all non-retaining walls, hedges, berms or other barriers intended to provide privacy, security or separation of properties and/or districts. The required setback distances shall not apply to fences or walls six and one half (6.5) feet or less in height or to necessary retaining walls or to unroofed terraces, subject to the following limitations:

In all districts, the following shall regulate the construction and/or use of fences:

- 330.4.1 No fence, wall or terrace shall be located within the right-of-way easement or taking line of any public or private street;
- 330.4.2 The finished side of all fences shall be placed facing out from the property on which it is erected;
- 330.4.3 Along any boundary between any residence district and any other district, the maximum permitted height of any fence of wall shall be eight (8) feet;
- 330.4.4 No fence, wall, hedge or barrier located within the front yard setback or within thirty (30) feet of a street shall be higher than four (4) feet if picket fence style (see-through) is used , OR three (3) feet if solid. For the purpose of this subsection, fence heights shall be measured from the average height of front yards.
- 330.4.5 No fence shall be electrified or constructed of or include barbed wire or similarly dangerous material in any district.
- 330.4.6 In order to secure visibility at street intersections, in all districts, all permissible fences and walls shall comply with the requirements of Subsection 330.5 of these regulations.

330.5 **Visibility at Street Intersections.**

No structure, sign, wall, fence, shrubbery, or trees shall be erected, maintained, or planted on any lot which interferes with the with the visibility of drivers of vehicles on a curve or at any public or private street intersection. The minimum vision clearance shall require a clear space between the elevations of two and one half feet(2.5') and seven feet (7') above the street grade (top of curb) within 25 feet of the intersecting street lines bordering corner lots."

Adopted 8/27/12

PZ 082712

Chairman Flaherty said there may be some shades of gray and in those instances they could be addressed through ZBA or P&Z. If the Commission sees a need to make modifications to the regulation we can do that.

Reports: City Engineer

Mr. Fred D'Amico was present this evening.

a. 3 Kiely's Lane/Jewett St.

Mr. D'Amico said they have finished the drainage and it is working fine. He will monitor it. They have eliminated the run off by installing catch basins. Everything seems to be working fine.

b. Valentine Drive – Wall

Mr. D'Amico said that he is still waiting for the applicant to provide the plans and maps for the wall. He has not come forward for a Certificate of Occupancy or any other permits. He said the applicant cannot sell the property until there is a C.O. issued.

c. Coastal Carriers – Curb Cut – Fill measurement (Special Exception)

Mr. D'Amico said that he is still waiting for Coastal Carriers to come back with his plan showing the topo on the map and the amount of fill brought in to the site.

d. Shell Station – Paint Curb

Mr. D'Amico said that he thought they painted the curb.

Mr. Heon, Mr. Bettini and Mr. Lawlor all said “No, they haven't painted it”

Chairman Flaherty asked Mr. D'Amico to advise them that the curb must be painted now because that was part of their approvals.

The Commissioners said if they don't comply with the approvals can Mr. Tanner issue a cease and desist order.

e. 40 Hotchkiss Terrace

Mr. D'Amico said he contacted Seymour Inland Wetlands Commission and they haven't gotten back to him. There was a major washout down the street from this area. Public Works Dept. had to bring in 1000 yards of material for the washout. The road was completely washed out. He said the washout was gradual over the years and then it just let go. The Public Works Dept. did the work and they put in over 1000 yards of material and they also installed drainage and a catch basin to control the water.

Chairman Flaherty asked why this didn't come before the commission for a permit. 1000 yards of material is a lot of fill.

Mr. D'Amico said that it was an emergency – the road was washing out along with people's property.

Chairman Flaherty said they should have come in for a permit and a plan for the restoration work. He said they should not do anything without a permit.

Mr. Tanner said that there may be a provision for emergency work.

Chairman Flaherty said they still need a plan and something for the file to show what was done and how it was done so in the future it could be referenced if need be. We have to make sure that these types of things are done correctly. He said the P&Z would have held a Special Meeting if need be to get it done.

Mr. D'Amico said that they are using stone and concrete from the landfill. It is mixed with other material and we put up rip rap on the top of the slope.

Mr. Heon said the contractor did a real nice job at this site. He planted grass and notified everyone on the street as to what was happening – he did a real nice job.

Chairman Flaherty asked if it went out to bid.

Mr. D'Amico said yes.

Chairman Flaherty asked Mr. D'Amico to take a look at the corner of Jewett Street and N. Spring Street where there is a block of concrete on the sidewalk that could cause a safety issue.

Mr. D'Amico said he will take a look at it and report any concerns to Public Works.

Reports: Zoning Enforcement Officer

Mr. James Tanner was present.

a. Violations:

53 Woodbridge Avenue

Mr. Tanner said there is an appeal to the cease and desist order he issued for 53 Woodbridge Ave. He said this is the appeal that the commissioner discussed last month.

Chairman Flaherty asked Mr. Tanner if he is represented and has counsel.

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Mr. Tanner said not at this time.

Mr. Heon made a motion to send a letter to Attorney Tom Welch to apprise him of the Appeal to be heard at the ZBA meeting on 9/10/12 and request that he be in attendance to assist Mr. Tanner, ZEO. Mr. Lawlor seconded. All in favor, so carried.

Mr. Heon said P&Z should comment to ZBA on this.

Chairman Flaherty said that the use is not allowed in Zoning.

Mr. Heon said it is not allowed in Zoning but a complaint was made.

Mr. Tanner said it is his understanding that there is a petition from the neighbors supporting the chickens.

Mr. Tanner reviewed the map of the property and the Zoning Regulation that prohibits livestock in a residential area.

Mr. Heon made a motion to send a letter supporting the Zoning Enforcement Officer on the Cease and Desist order issued to Jerney Shulick, 53 Woodbridge Ave. who is in violation of the Zoning Regulations Section 230, 235, 720, 310 and Schedule C. Mr. Bettini seconded. All in favor, so carried.

The Commissioners discussed keeping livestock on residential property.

b. Variances

Mr. Tanner said there are no variances.

Reports: Planning Consultant

Mr. Oswald Inglese was present.

Temporary Accessory Structures & Membrane Structures

Mr. Inglese said he has done some research on POD's (white boxes). He said that in some communities they are permissible but they have a limitation.

Mr. Bettini asked what the time limit is.

Mr. Inglese said it is 15 days to 30 days. They have to have permission from the ZEO to have one so the ZEO knows the location and the date of installation.

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Mr. Bettini said how does the ZEO notify the POD company when they are in violation or when they have to be removed.

Mr. Inglese said you notice it – no permit – they have to have a permit and if it doesn't happen and they don't remove it, the ZEO takes action. He said there is a lifestyle change and people have a need for these PODs. He said he recommends the maximum time is one (1) month. If they need more time they would have to come back to the ZEO and request an extension of time and it would be up to the ZEO to grant the extra time.

Chairman Flaherty said leave the PODs to the same as our Accessory Building standards and they have to conform to those regulations.

Mr. Bettini asked how would that work if they are delivered PODs.

Chairman Flaherty said it would allow the ZEO to have it removed when there is a complaint.

Mr. Bettini said 30 days and then an extension

Mr. Inglese said you could go for 30 days and deal with it as a separate entity.

Mr. Tanner said Membranes are addressed in the Building Code. They require size, labs, tie downs and additionally as accessory structures. Membrane houses are considered accessory structures in the Building Code. So it is considered a structure "port on demand". Placed on the ground it is a structure.

Chairman Flaherty suggested P&Z leave it as it is and make them adhere to our regulations.

Mr. Bettini said if the commission says they can only have it for 30 days, they would have to place it in a suitable area.

Mr. Inglese said Branford allows storage trailers or containers by special exception permit for a period not to exceed two years. This is a more involved process.

Mr. Bettini said there are a lot of these trailers in town.

Mr. Tanner said there are a lot of them. Eagle Storage Containers on the ground it is a storage container. On wheels it is a trailer. How does P&Z want to regulate these things. What does P&Z feel is most important to the City of Ansonia.

Mr. Heon said if placed next to the driveway you can't see. Some communities have done this and there are problems with this.

Chairman Flaherty said treat it as an accessory building if it is there for two weeks, one month and there is no challenge and not bothering anyone leave. If there is a complaint then it has to comply with the regulation and be removed.

Mr. Tanner said it falls under section 110 of the Zoning Regulations and it is the same as a trampoline.

Chairman Flaherty said I've seen the PODs in the driveway and I have no problem with people using them but if they become a burden or an imposition of the neighborhood, if they are intrusive in the neighborhood – then leave it as an accessory building and they have to adhere to that regulation.

Mr. Inglese said you have the type of Regulation that if it is not stated it is not allowed.

Mr. Inglese said if you list a use and they allow me then I have to comply. It is prohibited because it is not listed.

Chairman Flaherty said leave it and they have to adhere to our accessory building regulation. If there are complaints, if it is bothering someone, we can act. I have convinced myself we are better not allowing it.

Mr. Inglese said section 104 introduces zoning and the language that says if it is listed it is permitted put this statement in at the very beginning.

Chairman Flaherty asked the Commissioners what do they want Mr. Inglese to address.

Clothes Donation Bins

Mr. Tanner said clothing bins. If they are on private property we can't move them.

Chairman Flaherty said can you call the property owner.

Mr. Tanner said you can enforce it by writing a violation notice and give it to Attorney Welch. CGS 8-13a.

Mr. Heon said give them a fine. They are violating a city ordinance. A police officer can write a fine.

Mr. Tanner said it is a detailed process, like a ticket.

Chairman Flaherty said to have Attorney Welch draft a letter to the property owner/business owner "you have a clothing bin on your property. Please remove them immediately."

Mr. Tanner said we have done this before. We have asked for voluntary compliance before the cease and desist order. They have 10 days and then we give it to the Attorney.

Chairman Flaherty said the business owner will comply if it is not allowed?

Mr. Tanner said he has talked to them and some have complied and some say it is my property. It is political to keep them. They make phone calls to their representative to keep them saying they are doing a service to the community by giving people a way to get rid of their old clothing.

Vending Machine

Mr. Heon said vending machines on the sidewalk are a public health and safety issue.

Chairman Flaherty said the Shell Station has bottles stacked up all over the sidewalk, wood stacked up and other product out there for sale blocking the sidewalk. Pedestrians can't pass by in safety.

Mr. Inglese said vending machines are allowed in Burlington and Washington. He read a section of their regulations "Outdoor Vending Machines". These vending machines include but are not limited to drinks but include movie rentals, CD rentals, etc. They are located in the parking lots and on the outside of the building.

Mr. Heon said he has a problem with that. Cumberland Farms has a DVD vending machine and there was a Mom and child that walked up and the child was off the sidewalk walking in the traffic lane because the DVD vending machine was on the outside of the building and there was no room on the sidewalk for the child.

Mr. Inglese said there could be an outdoor vending machine ban.

Mr. Bettini said take other situations for safety and say that there is nothing on the sidewalk.

Mr. Heon said you can have a wheelchair on the sidewalk. The CVS machine is recessed. He said he doesn't want to ban them.

Mr. Bettini said there has to be enough space to walk. Four feet of unimpeded space for people to walk. Target put pallets out but there was enough space for people to walk safely. He said four feet of clear unimpeded space for people to walk.

Chairman Flaherty said I agree with the building code that vending machines should not be on the sidewalk.

There was discussion on private sidewalks on a building and parking of vehicles right up to the sidewalk and blocking part of the sidewalk and then there is a vending machine also located there blocking part of the sidewalk.

Chairman Flaherty suggested the commission send a letter to our Attorney asking him for instance a Vending Machine on a sidewalk of a building that impedes public access on the private property – who has the jurisdiction.

Mr. D'Amico said that when P&Z approved the site plan that can be addressed.

Mr. Bettini said when we approve the site plan we approve where the sidewalk will be located.

Mr. Heon said the Rhino Propane tanks – outside storage and a car hits it. They blow up. This happened in Washington, CT and the windows of their Town Hall were blown out.

Chairman Flaherty said find out who has jurisdiction on private property sidewalks. Nothing should be blocking the sidewalk.

There was discussion on the Shell Station and they have a sidewalk to the Convenience Store which should be a safe harbor for pedestrians however it is blocked. Who has jurisdiction over this sidewalk. He suggested P&Z ask Attorney Welch.

Sidewalks

Mr. Inglese said there are two types of sidewalks that are commonly used – State Highway with a minimum of five feet and walk paths that go down to three feet. The walk paths are not necessarily concrete but could be bithumous and have the two standards in the Zoning Regulations and the Subdivision Regulations. They belong in the Zoning Regulations when you have Special Permits and the subdivision regulations when you demand the developer to install sidewalks. The State Statute gives P&Z where to put the sidewalks. New subdivision regulations sidewalks or provision or room for them – they may not have sidewalks on both sides but you should have two standards.

Mr. Heon made a motion to have Mr. Inglese write a Sidewalk Regulation and forward it to the P&Z Commissioners for review. Mr. Lawlor seconded. All in favor, so carried.

Any other business to come before the Commission

Prestige Builders request for bond release for Valentine Court (Hunter's Landing Subdivision)

Mr. D'Amico said this was discussed previously and the City is still holding the bond. He said he has contacted the developer and he has never gotten back to him.

Mr. Heon made a motion to deny the request to release the bond because the developer failed to forward the information requested by the City Engineer. Mr. Bettini seconded. All in favor, so carried.

Deviate from the agenda – Castle Lane

Chairman Flaherty asked for a motion to deviate from the agenda to discuss the Judge for the Castle Lane case.

Mr. Bettini made a motion to deviate from the agenda. Mr. Lawlor seconded. All in favor, so carried.

Chairman Flaherty asked if there was anyone from the public who wished to speak to this because the Commission deviated from the agenda.

There was no one.

Chairman Flaherty explained that Judge Moran did some work for someone affiliated with Castle Lane many years ago. He said Attorney Welch has no problem if we sign the waiver for the conflict of interest.

Mr. Heon made a motion to authorize the Chairman to sign the conflict of interest statement. Mr. Lawlor seconded. Mrs. Radin said that she disliked waiving anything since the Judge was involved with these people.

Chairman Flaherty said that our counsel stated he had no problem with it. He asked if there was any further discussion. There being none he called for a vote. All commissioners were in favor, the motion carried.

Deviate from the agenda – 79-81 Hodge Ave. Subdivision

Chairman Flaherty stated there is another item for the agenda this evening. The City Engineer is asking to access the bond for 79-81 Hodge Avenue. A letter was sent by the City Engineer on July 31, 2012 advising the developer that to avoid the bond being taken he would have to complete work on the subdivision as approved by the Commission. One sidewalk is bithumus and one is not done. The approval states they all have to be concrete. One sidewalk is eroding causing a pedestrian hazard. There are saw horses across this area.

Chairman Flaherty said the letter was sent from the City Engineer and the Developer has not contacted Mr. D'Amico or Mr. Tanner looking to have this work completed. The question is – who has the power to revoke the bond – the City Engineer or P&Z. He said that the City Engineer should send a letter to P&Z asking to revoke the bond. Can P&Z

access this bond for Erosion and Sedimentation control? The bond is an E&S Bond placed by P&Z.

There was a discussion among the Commissioners regarding the taking of the bond and the process for taking the bond.

Mr. Tanner said it is an E&S Bond for the subdivision.

Chairman Flaherty said there should be clarification of this and how to go about it.

Mr. Heon said P&Z should state this as an E&S bond and the granite curb should remain in place. He asked if there was a catch basin in the street.

Mr. Heon made a motion to deviate from the agenda to hear the request from the City Engineer regarding the Hodge Avenue Subdivision violation of approval and get clarification from counsel so the E&S bond could be accessed to finish the remainder of work because it is a safety hazard to the public. Mr. Bettini seconded. All in favor, so carried.

Chairman Flaherty asked three (3) times if there was anyone from the public who wished to speak to this issue. There was no one.

Mr. Heon made a motion to amend his motion - that the City Engineer go forward with the taking of the bond if Attorney Welch concurs. Mr. Lawlor seconded. All in favor, so carried.

Deviate from the agenda - Board of Aldermen Referral – Metro PCS Mass. LLC for antenna

Mr. Heon made a motion to deviate from the agenda to discuss the referral from the Board of Aldermen regarding the antenna on the ATP building. Mr. Lawlor seconded. All in favor, so carried.

Chairman Flaherty asked three times if there was anyone who wished to speak to this issue. There was no one.

Mr. Heon said this is the same company that wanted the antenna on the Farrel building. Sprint is looking to come off that building. This building is a lot more visible than the Farrel Building. We had them put up balloons the last time so we could see how much of the antenna was visible.

Mr. Tanner said the last paragraph of the Resolution states they have to come before the P&Z Commission for site plan approval.

A discussion followed on the type of antenna and the visibility of the antenna from the building.

Mr. Bettini made a motion to send a favorable reply to the 8-24 referral with the caveat that the MetroPCS Massachusetts, LLC Company makes application for site plan approval to the P&Z Commission. Mr. Lawlor seconded. A voice vote was taken and all in favor with one abstention (J. Heon abstained). The motion carried.

Mrs. Radin said Mr. Heon was at the meeting when Chief Hale mentioned something about interference of signals.

Mr. Heon said that was in executive session and we are not allowed to discuss it.

Mr. Heon discussed the Board of Aldermen referral to give a piece of city owned property to 114 Main St. (Crave Restaurant) for an outside deck. He said that P&Z was unaware that this is a Historic Building. He said they questioned by we were giving away air rights.

Chairman Flaherty said we don't have jurisdiction of Historic Buildings. The issue of air rights was "perhaps the City of Ansonia should retain the land and give them air rights to build a deck".

Mr. Heon said no one had any clue except Mrs. Radin as to what air rights meant.

Mrs. Radin said Randy Carroll said he will check and see if they can do anything with that building because it is a historic building.

Mr. Heon said he feels that P&Z should clarify "air rights".

Chairman Flaherty said air rights allow you to build a structure above it.

Mr. Heon said they did not know what air rights are. He said he would like to send a letter to the Board of Aldermen clarifying "air rights". Their question is are they going to be able to attach the deck to the ground or leave it up in the air.

Mr. Heon said there are women talking about the Senior Parking lot and loosing parking spaces.

Mr. Tanner said at the Mayor's cabinet meeting the Supt. of Public Works said snow wasn't a problem and the snow is removed from the lot with a bucket loader.

Chairman Flaherty said he will have Attorney Welch discuss "air rights" with the Commission.

Mr. Heon said Mr. Inglese should also be involved in this.

Mr. Inglese said what is it you are talking about.

Chairman Flaherty said the restaurant Crave. They want to build a deck on the side of their building.

Mr. Heon made a motion to send a letter to Attorney Welch to explain "air rights" to the P&Z Commission. Mr. Bettini seconded. All in favor, so carried.

N. Prospect Street – Gary Zerella

Mr. Bettini made a motion to return the public hearing fee paid by Mr. Zerella for a Special Exception approval for his site plan. A public hearing was not held for this project. Mr. Heon seconded. All in favor, so carried.

Main Street Projects

Mr. D'Amico gave the Commissioners a brief update on the work that is currently being done on Main Street. He explained the Regional Water Authority where they are replacing and repairing the large lines. The City is also installing new lights along Main Street and that project is about 50% complete.

Mr. D'Amico said the UI lights will match the antique acorn lights in the Park. They will replace the sidewalks with concrete where these are being installed. UI will leave the existing lights in place after the new lights are up and on. The existing lights will be shut off but not removed until it is determined that there is enough light from the new ones installed.

Mr. Bettini agreed that it may be too dark with the new lights.

Mr. D'Amico said there will be 22 lights – one about every 100 feet. They will not have so much light as the larger existing lights. Once they are lit, the people will decide.

Chairman Flaherty asked where they are bringing all of the material that is being removed.

Mr. D'Amico said to the landfill and then they will decide where it will go.

Mr. Heon asked what they were planning to do in the West Main St. Parking lot.

Mr. D'Amico said there is a grant to repave the area. There will be new lights, new trees in there and a Farmer's marking in the West main St. parking lot.

Executive Session

PZ 082712

None

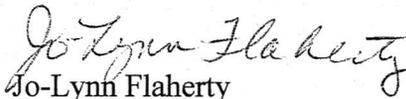
September 2012 Meeting

The September 2012 meeting is scheduled for September 24, 2012 at 7:30 p.m.

Adjourn

Mr. Heon made a motion to adjourn the meeting at 9:15 p.m. Mr. Bettini seconded. All in favor, so carried.

Respectfully submitted,


Jo-Lynn Flaherty
Secretary