

April 27, 2009

Regular Meeting

Present: Bart Flaherty, Chairman
Doug Furtek
Jared Heon
Jeff Lawlor
Ed Phipps
Jim Tanner

Others Present: Fred D'Amico, City Engineer
Oswald Inglese, Planning Consultant
Kevin Blake, Corporation Counsel
Steve Blume, President Board of Aldermen

The Regular Meeting of the Planning & Zoning Commission was called to order at 7:40 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 March 30, 2009 meeting. Mr. Tanner seconded. All in favor, so carried.

Approval of Bills

Mr. Heon made a motion to pay all bills if found to be correct. Mr. Tanner seconded. All in favor, so carried.

1. Oswald Inglese: Bill for professional services - \$750

PZ 042709

2. Marjorie Shansky: Bill for professional services - \$638.75

Correspondence

Mr. Phipps made a motion to accept, dispense with the reading, place on file and take up during the course of the meeting any correspondence received. Mr. Heon seconded. All in favor, so carried.

1. Kevin Blake: re: Renu Auto Body dated 4/21/09
2. United International Corp. re: 54 Benz St. dated 11/3/08
3. Peter Crabtree to Guedes-Kahn Arch. Re: 14 N. Cliff St. Buddhist Temple. Dated 4/20/09
4. Kevin Blake re: George Shuster vs. P&Z dated 4/9/09
5. Kevin Blake re: Raymond Jones, 119 Division St. dated 4/16/09
6. P&Z to VRPA re: Referral 497 E. Main St. & 153 Main St. Zone Change. Dated 4/7/09
7. State of Conn. re: Notice of Tentative Determination and Intent to waive Public Hearing for Stream Channel encroachment Naugatuck River dtd. 4/7/09
8. Peter Crabtree to P&Z re: Salvation Army 26 Lester St. dtd 4/17/09

Proposed Amendment to Zoning Regulations - Section 222.06 Permitted Uses

Chairman Flaherty stated that Planning & Zoning held a public hearing this evening on the proposed amendment to the Zoning Regulations. He asked if there was any further discussion or comments.

Mr. Inglese said there was question from the table and the general public on section (b) #2 before purpose add "or office". That should correct the deficiency.

Mr. Inglese said he recommends adoption of the proposed amendment Section 222.06 Permitted Uses.

Mr. Tanner made a motion to adopt the new subsection Section 222.06 as revised "and/or office purposes". Mr. Phipps seconded. All in favor, so carried.

Adopted: 4/27/09

Effective Date: 5/12/09

John Sponheimer/Duke Realty of CT request to change the zone for two parcels as follows:

- a. 497 East Main St. from Heavy Industrial (HI) to Commercial (C)
- b. 153 Main Street from Heavy Industrial to Commercial (C)

Mr. John Sponheimer was present.

PZ 042709

497 East Main Street:

Mr. Heon made a motion to adopt the map amendment for 497 East Main Street changing the parcel from Heavy Industrial (HI) to Commercial (C). Mr. Tanner seconded. All in favor, so carried. Adopted: 4/27/09 Effective Date: 5/12/09

153 Main Street:

Mr. Heon made a motion to adopt the map amendment for 153 Main Street changing the parcel from Heavy Industrial (HI) to Commercial (C). Mr. Tanner seconded. All in favor so carried. Adopted 4/27/09. Effective Date: 5/12/09

Ansonia M&L Properties/Mark Tice request for Special Exception to store fill for surplus jobs and sale on property located at 420 Main Street, Ansonia

Mr. Mark Tice was present.

Mr. Tice said that he was building up the site to get away from the contamination so when he built the building he didn't have to deal with it.

Mr. Inglese said how long will the material be there on the property.

Mr. Tice said that there is only 300 yards there that will not be used. He said if his crew is on a job they will use the extra fill from the property. If they have extra fill from a job that is left over they will bring the extra fill to the property. He said he didn't realize that he was in violation.

Mr. Inglese asked Mr. Tice about the contamination of the soil on the property and if it was contained.

Mr. Tice said no, it is not contained. He said there is contaminated soil and he gave the commission stacks of stuff on the contamination. It was part of the approval that he gives any prospective tenant a copy of the report on the contamination on the site.

Mr. Inglese said the contaminated soil that is there is encapsulated.

Mr. Tice said yes. The soil will remain on the site.

Mr. Inglese asked if Mr. Tice contacted DEP.

Mr. Tice said this is not in DEP's jurisdiction. They gave recommendations. He said he is trying to keep away from the contamination. Digging for frost walls will not disturb it.

Chairman Flaherty said that this has to go to Public Hearing for special exception and it is in the City Center Zone which also requires a public hearing.

Mr. Inglese said that is correct.

Mr. Phipps said that this property is near the proposed River walk and he is concerned about a building being built on contaminated soil.

Chairman Flaherty said it would depend on what the contaminants are and what they do to the ground water – the type and impact to the people living there.

Mr. Heon said to set a public hearing for the May meeting.

Mr. Phipps said he would like Mr. Inglese to investigate it more.

There was discussion on the contaminants located on the site i.e. precipitators, hydrocarbon contamination, etc.

Chairman Flaherty said that in the City Center Zone it disallows construction yards.

Mr. Inglese said this is one of the uses the Commission eliminated in the plan – construction yards.

There was discussion on what is being stored on the site now. It is noted that there are dump trucks, tractor trailers, large storage containers, trucks for sale, large mounds of earth material, etc.

Mr. Phipps said that the River walk is proposed to be a focal point for the area. The Mayor has proposed a Lighthouse along the walkway.

Mr. Tanner made a motion to hold a public hearing on Monday, May 18, 2009 at 7:00 p.m. Mr. Phipps seconded. All in favor, so carried.

Steven Bellis/White Hills Homes request for Re-subdivision for Parcel A & Parcel C, Hoinski Way for a 4 lot subdivision

Mr. Steven Bellis was present.

Mr. Bellis said that this is a re-subdivision and will require a public hearing. The application is for a four (4) lot subdivision on Hoinski Way. The property was subdivided years ago. The application was submitted to Planning and Zoning and it was withdrawn because they did not have Inland Wetlands approval.

Mr. Inglese said this is a new application this evening.

Mr. Bellis said yes.

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Chairman Flaherty said this is a new application and we have not addressed the application that was withdrawn – this would be day one.

Mr. Bellis said he has WPCA conceptual approval and he will submit the WPCA letter to the Commission.

Chairman Flaherty asked if there was anything further.

Mr. Tanner made a motion to refer the application to staff for review and comment. Mr. Phipps seconded. All in favor, so carried.

Chairman Flaherty asked Mr. Inglese to review the application in light of the industrial dump site. He suggested the Commission do a site walk of the property. He asked Mr. Bellis if there was any objection to the commission conducting a site walk of the property.

Mr. Bellis said he has the information on the report.

Chairman Flaherty said you want to create lots and it has to be a reasonable assumption to create a building lot and you should be able to do those things you can do on a lot. Are these lots buildable and meet the criteria of what you can do on the property in addition to the contamination.

Mr. Bellis said there are no contaminants.

Chairman Flaherty said we don't know that. Southwest Conservation District shows rubber is surfacing and they call it a Brownfield. The drainage is going into a privately owned detention facility.

Mr. Bellis said that is where it is going now.

Chairman Flaherty said it is privately owned. You will have to go the Homeowners Association and get permission to put your drainage in their detention basin; you will have to post a bond like the other homeowners in the association. The detention basin may have had a problem and caused some problems with the adjoining Ansonia Nature Center property. He said that the following issues must be addressed:

1. Resolving the industrial waste dump issue
2. Contacting the Homeowners Association regarding the drainage and permission to put the drainage into their detention pond.
3. Provide drainage calculations that show the detention pond can handle the increase in flow from the proposed subdivision. The detention pond must have the capacity to handle the extra water.
4. When you pipe water it is considerably different – there is a velocity to be considered.

5. We don't know if the detention of the pond is adequate for the additional flow.
6. You will have to post a bond to continue the maintenance of the detention pond.
7. The Commission doesn't know what happened when the area was breached and there was a complaint by the Nature Center Director.

Mr. Phipps explained that Inland Wetlands did a site inspection of the area where Ms. Lindgren said the water breached and caused erosion on the Nature Center property. The Homeowners Association stated that they would repair the breach and the damage to the City property.

Mr. Inglese said how bulky is the report on the rubber.

Mr. Bellis said the GZA report is about 20 to 30 pages and there are two or three letters from DEP that say you can build on the property.

Chairman Flaherty asked if Mr. Bellis did test borings on the parcel.

Mr. Bellis said the GZA staff did them.

Chairman Flaherty asked why they went back there to do test borings if they weren't going to build on that piece originally.

Mr. Bellis said they did test borings and an underground water report.

Chairman Flaherty asked if there were restrictions placed on the property.

Mr. Inglese asked if the homeowner can plant a vegetable garden on the property.

Mr. Bellis said **no excavation** of the property is allowed. The homeowner can put a pool on top of the land but not underground.

There was discussion on holding a site walk for this property and the other two applications before the commission.

Mr. Phipps made a motion to hold a site inspection/special meeting on Saturday, May 16, 2009 at 10:00 a.m. for the following sites:

1. Mark Tice – Main Street
2. Steven Bellis – Hoinski Way
3. William Griffin – Benz Street

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

Mr. Heon suggested that on Monday June 8, 2009 the commission hold a public hearing on all three applications.

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There was discussion on the above.

Mr. Blake said that a public hearing must begin 65 days of receipt of the application.

There was discussion on the concerns the commission has regarding the property at Hoinski Way. There are normal expectations of a building lot in order to serve as a lot and the commission will do due diligence to maintain the integrity of a building lot and the homeowners health and safety. Rubber burns. What would happen if there was a fire underground caused by the homeowner hosting a "pig roast"? Rubber is already showing through the surface of the land. The commissioners don't want anyone getting hurt. If there are children that will play on the land – will they be safe – do we know what is buried there. Is the information current that the Commission has provided to them by the applicant?

Chairman Flaherty stated that the commission will conduct a site walk of the property and see the test pits, etc.

Mr. Bellis said that the commission can go on the property and he will be there.

NCW Development/William Griffin request for 4 lot subdivision known as Benz Street Estates, 54 Benz St., Ansonia

And

NCW Development/William Griffin request site plan approval for 4 single family dwellings in 4 lot subdivision known as Benz Street Estates, 54 Benz St., Ansonia

Mr. William Griffin was present.

Mr. Griffin said he was before the Commission four months ago and the application was denied without prejudice because he was not through Inland Wetlands. He said he has submitted a new application and a new set of plans (maps) reflecting the changes requested by the Inland Wetlands Commission.

Mr. Phipps said that the IWC requested Mr. Griffin revise his plans after the site inspection. He asked Mr. Griffin if these maps show all of the changes the IWC requested.

Mr. Griffin said yes they are the revised plans that IWC granted him a permit on.

Mr. Griffin said that lot 1 has an existing house. Lot 2 is a rear lot with a driveway. Lot 3 is a front lot on Benz Street where he modified the catch basin and proposed another set of gullies. Lot 4 he added a trench drain to a set of gullies to catch the water in the driveway. He marked the map to show the location of the brook.

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Mr. Griffin explained the trench drain in the driveway.

Mr. Inglese asked how is the sight distance on the access way to lot 2 and the driveway to lot 1.

Mr. Griffin said it is 63 feet flattened down with 150 feet sight line.

Mr. Inglese asked if Mr. Griffin will relocate the stone wall.

Mr. Griffin said a portion will be eliminated.

Mr. Inglese said there are trees located there.

Mr. Griffin said some of the trees will have to be removed.

Chairman Flaherty asked where the stone wall will be moved.

Mr. Griffin said it will be moved back to the 150 feet sight line.

Mr. Inglese said there are three (3) driveways within less than 50 feet of each other.

Mr. Griffin said yes, that is correct.

Chairman Flaherty said there are three driveways within 65 feet of each other.

Mr. Griffin said Lot 2 and Lot 3 are within 65 feet and Lot 1 is 63 feet.

Mr. Phipps made a motion to refer the application for a 4 lot subdivision on 54 Benz Street to staff. Mr. Furtek seconded. All in favor, so carried.

Chairman Flaherty asked Mr. Griffin if the Commission could conduct a site walk on Saturday May 16 at his site.

Mr. Griffin said that would be OK.

Chairman Flaherty asked Mr. Griffin if he could put yellow tape up showing the sight line, the three driveways coming out onto Benz Street. Start the yellow tape at lot 1 going to lot 2 and to lot 4 and down around the radius of the corner for the sight line.

Mr. Inglese asked that the driveways be staked.

Mr. Griffin said he will stake the driveways and put up the yellow tape for the sight line.

Peter Crabtree/Salvation Army re: Discussion regarding a change of use for the Salvation Army located at 26 Lester Street, Ansonia

Mr. Peter Crabtree, Zoning Enforcement Officer is present.

Chairman Flaherty said that Mr. Crabtree stated at the last meeting the Salvation Army wanted to put in a kitchen in their building on Lester Street.

Mr. Crabtree said he sent a follow up letter because the Statement of Use submitted to him by the Major from the Salvation Army did not have a signature or a date.

Mr. Tanner asked if the kitchen has been built.

Mr. Inglese asked if the Salvation Army needs to apply for Site Plan approval for this activity.

Mr. Crabtree said they didn't go to him for approval to build the kitchen. The kitchen is built. They are a non-profit organization and they had a kitchen for their own use for the Church but it was not open to the general public. Then they discussed a "soup kitchen" for the Valley residents. This is a different use.

Mr. Tanner said that the Valley Health Department has to be involved in this.

Mr. Crabtree said typically they used the kitchen for their employees. He said they would need a site down area but he has never been in a soup kitchen so he doesn't know how it operates.

Mr. Phipps said the letter states they will serve meals so they will need tables.

Mr. Crabtree said we would need a floor plan from them.

Mr. Phipps said that for example they serve meals five days a week where would the majority of the people taking the meals come from.

Mr. Crabtree said they are vague about that; it would depend on need and on circumstance. He said they should provide more information to him.

Mr. Tanner said they are taking steps without any planning. You would need to know how many people, is there parking, hours, etc.

Mr. Heon said can Mr. Crabtree go out to the site and inspect it to see what is going on in the building. We don't know what they are doing in the building.

Mr. Crabtree said he can ask them to make up a floor plan and bring it in.

Mr. Phipps said it should be denied without prejudice.

Chairman Flaherty said there is a public health and safety issue and they have well intentions. They have plans to put in a Community Garden for the area on this site also. He said his concern is 25 to 35 individuals seeking meals at this location. The public housing will be mainly served but they also state they will serve Ansonia, Derby, Seymour and Shelton.

Mr. Phipps made a motion to deny the request for a soup kitchen at 26 Lester Street. Mr. Tanner seconded. All in favor with exception J. Heon abstained because there is not enough information for him to vote either way. The motion carried.

Chairman Flaherty said Mr. Crabtree will send a letter advising them that they were denied the soup kitchen and for the site they should show the Community Garden and the floor plan of the building.

Reports: City Engineer

Mr. Fred D'Amico, City Engineer is present.

1. R. Scinto/Fountain Lake Commerce Park – E&S Bond/Performance Bond

Mr. D'Amico said that he is still waiting for the final bond amount from Scinto. They have stopped work and stopped the road installation because there is no tenant lined up. He will get a portion of the bond in place.

Chairman Flaherty said shouldn't the developer hydro seed the area. The whole hill has been scalped and is eroding. It's a mess.

Mr. Blake said he was in contact with Frank Morizi, who has been very cooperative, for the Erosion and Sediment Control bond. He said that they need to post more than that for the work that was done. He said that they did leave the stumps of the trees.

Mr. Furtek said he was up there to take a look and the hill is eroding. It's a mess.

Mr. Blake said he will contact DeCarlo & Doll regarding the posting of the E&S Bond and report back to the commission.

2. 3 Keily's Lane – Jerry Nocerino

Chairman Flaherty said there is a problem of erosion and flooding on 125 Jewett Street below 3 Keily's Lane construction.

Mr. Phipps said that is across the street from Chief McGrath.

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Chairman Flaherty said that he called Mr. D'Amico about this condition.

Mr. D'Amico said that he contacted Jerry Nocerino and his son. They went out to site and he added more silt fence and hay bales. Two days later the Public Works Dept. had to pump out the catch basin on Jewett Street because it was silted in from the overflow off Nocerino's property. He said he is keeping track of it and he advised Nocerino that he may be charged for the work on the catch basin.

Mr. D'Amico said that the sediment pond filled with silt and every time it rains the water goes past it to the bottom of the hill. He said he told him to clean out the sediment pond and do additional measures to secure that it will not over flow. The work was to be done by Thursday 4/23/09. He said he will go out there and check it tomorrow to see if they did the work he asked them to do. He said he was informed Mr. Nocerino that PWD had to clean out the catch basin.

Chairman Flaherty asked when.

Mr. D'Amico said that day. He said he expects the Nocerino violation to be repaired.

Chairman Flaherty said the sediment pond is inadequate or it would not have breached.

Mr. D'Amico said the area is not seeded. There is a lot more area running off the hill. Once the house is built it will be fine. It is bare earth and the settling pond is not large enough. The water was caught below and washed out the driveway on Jewett Street. He said he doesn't think it is Nocerino's responsibility for the wash out of the driveway because there is a 10% grade and it can't withstand the flow of the water from behind.

Chairman Flaherty said I called you during the first big rain storm. The homeowner on Jewett Street should not be held responsible to bear the brunt of anything that was not caused by him. There was never a problem there before Nocerino started to build a house up behind him on Keily's Lane. The Commission should pull the bond and fix the problem.

Mr. D'Amico said he will go out to the site to see if Nocerino fixed the sediment pond and notify him that the Commission will pull the bond to fix the problem if he doesn't do it.

3. Frank Frumento/Release of Bond for Sheasby Road

Mr. D'Amico said that Mr. Frumento has filed the deeds for the easements and he has copies. He needs copies for the Homeowners Association papers.

Reports: Zoning Enforcement Officer

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Mr. Peter Crabtree, Zoning Enforcement Officer was present.

Violations:

1. 1 Riverside Drive

Mr. Crabtree said he has had no conversations with the owner of 1 Riverside Drive.

Mr. Blake said that this is in court on the short calendar, there is a motion for contempt and he is waiting for the court to make a decision.

2. Mutual Housing Parking, Pershing Drive

Mr. Crabtree said there is one unregistered vehicle left there. He put in a call to the lady at Mutual Housing and advised her the unregistered vehicle has to be removed.

3. Renu Auto Body

Chairman Flaherty said he received a letter from Corporation Counsel Blake dated April 21, 2009. He said he is trying to get this straight in his mind. He read the letter from Corporation Counsel Blake dated 4/21/09 to the members. He said there is a letter from Corporation Counsel Blake to Chief Hale dated June 2001 – he read this letter to the members.

Corporation Counsel Blake said with respect to the towing issues there was a question in 1990 regarding Renu doing body work. He found the files in the building department.

Chairman Flaherty read the letter from Corporation Counsel Blake to Mr. Crabtree dated June 2001. He noted Mr. Crabtree wrote on the bottom of the letter Notes #3 and #4.

Chairman Flaherty asked what transpired from January 2001 to now in Zoning that allows Renu to continue operations after 9:00 p.m.

Corporation Counsel Blake said with regards to Towing – there are files in court on Heusser. Renu has been on the Tow list in rotation until they took themselves off. They made a decision to allow them to tow.

Chairman Flaherty said with the old tow list you could take yourself off and the tow would roll over to the next operator. It can roll over but now they tow after 9:00 p.m. You stated you are in agreement with me. What changed in Zoning? They operated a Body Shop and the noise after 9:00 p.m. was prohibited by the court.

Corporation Counsel said the body shop was in 1990. There was no indication they would not be able to tow when they got called.

Chairman Flaherty said this is a residential area and you have diesels towing vehicles in the evening at 2:00 a.m. – 3:00 a.m. Tell me what's changed in your letter from 2001 to 2009 in Zoning. I don't know of anything that changed in zoning. Can you tell me what has changed in zoning from 2001 to 2009?

Corporation Counsel said I will research it and report back.

Chairman Flaherty said the Commission has to be consistent – the Regulations are the Regulations and we should be consistent.

Mr. Heon asked when he stopped towing.

Corporation Counsel Blake said in the 1990's the owner got called and he couldn't do it so he stopped towing.

Mr. Heon said now they started to tow again

Corporation Counsel Blake said anyone can get on the tow list.

Chairman Flaherty said I don't care about the tow list. Planning and Zoning should not care about the tow list. He can't tow after 9:00 p.m. What changed from 2001 to 2009 in Zoning?

Corporation Counsel Blake will research the topic.

Copies of the 2001 letters are attached.

4. New Violations

Mr. Crabtree said there was a violation on William Street with erosion. He said he went out there and inspected the area.

Mr. Crabtree said he also went out to Nocerino's property on Keily Lane to see what happened there. He advised Mr. Nocerino to fix the problem. He said if he doesn't fix it the commission can have Mr. Blake take action.

Mr. Crabtree said there was a complaint on Hubbell Avenue that someone was fixing cars at their home. He will send them a letter.

Mr. Phipps asked about the store on Wakelee Avenue that had a fire and was recently rebuilt. The owner rebuilt the store and there are apartments above the store. He asked

Mr. Crabtree if there are the same number of apartments that were there before the fire and if they received a Certificate of Occupancy.

Mr. Crabtree said the new Assessor's Card say there are two apartments there. He said he doesn't know if they received a C.O. Mr. Phipps would have to ask Mr. Behun the Building Inspector.

Mr. Phipps said he wanted to know if there was a C.O. issued because there are people living there.

Mr. Crabtree said it will not go through his office; Mr. Phipps would have to see Mr. Behun.

Mr. Phipps said OK he will see Mr. Behun.

Variances

Mr. Crabtree said there are no variances this month.

Reports: Planning Consultant

Mr. Oswald Inglese was present.

Set Workshop meeting for Fee Schedule, Sidewalks, Fences, Pods, Hoop Houses, Window Signs, Itinerate Vendors, Clothes Donation Bins

Mr. Inglese said he has prepared a table for the fee schedule. He showed the members the table he prepared however he needs the Ansonia fees to finish the table and he will have the secretary send it out to the members.

There was discussion on adjusting the P&Z fee schedule to be in line with the other towns.

Chairman Flaherty said once the Fee Schedule is complete and the Commission has agreed on the fees we will send them to the Board of Aldermen so they can see our fees are in line with other municipalities.

Any other business to come before the Commission

Mr. Heon said that the parking lot across the street from Webster Hose needs to be repaired. The upper walls are rolling down the property and there is a danger that should a wall collapse it could hurt someone or cause damage.

Corporation Counsel Blake said he will meet with Mike Schryver on Wednesday and go over there to see what needs to be done.

Mr. Heon said that he doesn't want the rocks from wall falling out and hurting someone.

Chairman Flaherty asked Corporation Counsel to send a letter to Public Works on the wall.

Mr. Blake said he sent a letter to Public Works and Mr. D'Amico and Mr. Schryver went out there to look at it. He said he will address it with them tomorrow.

Executive Session (if needed)

None

May Meeting

Public Hearing: Monday, May 18, 2009 at 7:00 p.m.

Regular Meeting: Monday, May 18, 2009 at 7:30 p.m.

Site Inspection: Saturday, May 16, 2009 at 10:00 a.m. beginning at Tice Site – 420 Main St. – then to 54 Benz Street and then to Hoinski Way

Adjourn

Mr. Tanner made a motion to adjourn the meeting at 9:20 p.m. Mr. Phipps seconded. All in favor, so carried.

Respectfully submitted,

Jo-Lynn Flaherty
Secretary