

PLANNING & ZONING COMMISSION  
Public Hearing & Regular Meeting  
November 4, 2009

The Planning & Zoning Commission held a public hearing and regular meeting on Tuesday, November 4, 2009. Clerk Mark J. Sciota, called the meeting to order at 7:00 o'clock, p.m.

The following Councilpersons were present, viz:

James Sinclair	Edward Pocock, Jr.
Zaya Oshana, Jr.	Paul Chaplinsky
Kelly Kennedy DelDebbio*	Dawn Miceli
Michael DelSanto	

Alternates: Steve Kalkowski

Ex-officio members present were as follows, viz:

Anthony J. Tranquillo, Director of Public Works/Town Engineer  
Mark J. Sciota, Deputy Town Manager/Town Attorney  
John Weichsel, Town Manager

Absent: Lisa Conroy, Alternate Commissioner  
Mary F. Savage-Dunham, Town Planner

A quorum was determined.

The Pledge of Allegiance to the American Flag was recited by everyone in attendance.

The Minutes are being prepared summary style and the video and audio tapes are available for further detail.

**CLERK, MARK J. SCIOTA, presiding:**

Mark J. Sciota did the swearing in of four commissioners:  
Michael DelSanto, Edward Pocock, Jr., Paul Chaplinsky and Zaya Oshana, Jr.

(Sworn, sworn)

Congratulations to all of you.

(Applause)

## ELECTION OF OFFICERS

## - CHAIR

The Clerk entertained nominations for Chair. Commissioner DelDebbio nominated Michael DelSanto. Mr. Chaplinsky seconded. Hearing no other nominations, the nomination of Michael DelSanto for Chairman passed unanimously on a voice vote.

(Applause)

**MICHAEL DELSANTO, Chair, assuming the Chair:**

Election of Officers continued.

## - Vice Chair

Mr. Chaplinsky nominated Kelly DelDebbio. Mr. Sinclair seconded. Hearing no other nominations, the nomination of Kelly DelDebbio for Vice Chair passed unanimously on a voice vote.

(Applause)

## - Secretary

Mr. Pocock nominated Paul Chaplinsky. Ms. DelDebbio seconded. Hearing no other nominations, the nomination of Paul Chaplinsky for Secretary passed unanimously on a voice vote.

(Applause)

## - Appointment of Alternates

Passed this evening.

## APPROVAL OF MINUTES

## - Regular meeting of October 20, 2009

Mr. Sinclair made a motion to approve. Ms. DelDebbio seconded. Motion passed on a majority voice vote with Mr. Pocock abstaining.

## PUBLIC HEARINGS

A. Wayne Kozlowski, 1 lot Resubdivision application, Hamlin Brook Pass and Winding Ridge (Assessor's Map 95, Parcel 1) (S#1186.2)

Mr. Tranquillo read the legal notice into the record.

Stephen Giudice, Harry Cole & Son represented the application. He first congratulated everyone. This is a situation where we failed to file the Mylar. This is a rear lot, 1 lot subdivision off of Hamlin Pass. We had received wetland approval for a stream crossing and this commission did a rear lot determination. The property owner started building his driveway after the approvals. In his inexperience, he failed to remember to file his Mylar within the 90 days.

Everything that was part of the original application we'd like to incorporate into the record here. We are proposing no changes to the plans. It's the exactly the same plan and application. Same drainage calculations.

We'd like to file the Mylar filed and get this squared away.

Mr. Tranquillo added the applicant is asking for a waiver of the fee. Mr. Giudice said he was.

(Those speaking against the application)

No response.

Hearing no further comment, the Chair closed the public hearing.

#### BUSINESS MEETING

A. Wayne Kozlowski, 1 lot Resubdivision application, Hamlin Brook Pass and Winding Ridge (Assessor's Map 95, Parcel 1) (S#1186.2)

Mr. Oshana made a motion to waive the fee on this application. Ms. Miceli seconded. Motion passed 7 to 0 on a roll call vote.

Mr. Oshana made a motion for approval of this application. Mr. Sinclair seconded. Motion passed 7 to 0 on a roll call vote.

B. Mueller Estates, 799 Marion Avenue, S #1275.1) 3 lot subdivision.

Attorney Bryan Meccariello presented the application. Congratulations! This is another matter of the Mylar not having been filed. Therefore, the staff declared this particular project null and void which we have no dispute with.

The only dispute I have is this appeared under administrative reports at the last meeting, September 20<sup>th</sup>. Had I been aware of it, I certainly would have shown up that evening. I need to take exception to a portion of the printed Minutes. In the Minutes it was conveyed to this commission and I don't want this commission to think this

applicant would come in regarding trees that were cut and say "oh, sorry, we can't preserve those trees." That's not the case.

The trees that were cut on this property were the trees that were going to be cut on this property and the trees that were preserved on this property are the trees that were preserved. They were carefully flagged and measured and exactly how staff indicated. They were two per lot.

Prior to this approval back on March 17<sup>th</sup>, 2009, you'd drive down the street and what you'd see is a row of trees. But you are not looking at is you are not looking at the actual trees on site. These were 80 to 90 foot on height average pine trees. Dead. Underneath was pine needles and not good soil. From the road you saw scrub trees.

Discussion.

This is exactly the way the plan was approved. The buffer is still there. The buffer along the CL&P lines, the buffer to the house which is 799 Marion Avenue and along the road the trees that were flagged stayed.

So I just take exception to that on behalf of the applicant.

We are here with the same plan, nothing has changed. The site has actually improved. Spoke about the drainage on the road.

The silt fence is up on the property around the stockpiled material delivered on site. Berm was created by wood chips which were existing as advised by Dave Lavallee. I have emails between me and staff and will be happy to provide that.

I have Google earth, what the trees looked like from a satellite view. If you lay it on the plan, you'll see that what was cut is what needs to be done.

Discussion.

This is a half acre, three quarter acre to full acre lots. Oversized lots given the topography.

There's no issue of drainage. No issue of erosion. E & S measures have been taken.

The Chair announced that the Planner, Mary Savage-Dunham is under the weather and that's why she's not here. Thank you, Tony and Mark for kind of taking over her duties.

Mr. Tranquillo added staff did do a checklist, very minor. There has been no response to those, yet. So we're not ready for approval and we recommend a table.

The applicant in this case has also asked for a waiver of the fee.

Attorney Meccariello added for the record, the fee was paid prior. This is just resubmitting a plan which was approved. There has been no additional items added. If we need to pay the fee, we need to pay the fee.

Discussion.

Attorney Meccariello further added this is also the piece of property that the town is benefiting by as a portion of it is being deeded to the town to soften the curve along Marion by Strong School.

As far as the checklists, we are not looking for approval tonight. Our engineer needs to speak with staff about the items on the checklists. Certain things don't apply.

Discussion.

Mr. Chaplinsky asked Attorney Meccariello the reason why the filing wasn't done. Attorney Meccariello said this was approved on March 17<sup>th</sup>. This is the first approval received by this applicant given the new set of procedures going on. We received a letter indicating that the bonding was finally calculated and this was done after a period of time after the 90 day required. The applicant and me simply didn't file a request for an extension. Just an oversight. We proceeded according to the actual approval and the stipulations on the property.

Discussion.

Mr. Sinclair noted one reason for charging fees is to offset the cost of engineering, planning department labor. It seems you guys are putting work into this application.

Discussion.

Attorney Meccariello pointed out there is still a situation where there is a fee simple conveyance of a piece of property that this property owner does not have to convey to the town. He was asked to have this property conveyed for the betterment of the town. The applicant appreciates the fact we need to create safe roads. If there is going to be a fee charged with it, as well, that's fine. But any additional engineering work on our part with respect to the town and that conveyance, we'll gladly submit the bill.

Discussion.

Mr. Chaplinsky made a motion to waive the fee. It seems this was an oversight. Ms. DelDebbio seconded. Motion passed 6 to 1 with Mr. Sinclair opposed.

Mr. Chaplinsky made a motion to table. Mr. Sinclair seconded. Motion passed unanimously on a voice vote.

C. Mandatory referral under 8-24 for Farmstead Sanitary Sewer Interceptor MR #448.

Mr. Tranquillo advised this is a staff referral to the Town Council. It involves a 10 inch sanitary sewer interceptor a thousand feet long that will run from Mill Street along the west side of the river to High Tower Road. It'll eliminate a river crossing that exists and an aerial crossing of the river which historically we've had tremendous problems with. This is something that's very badly needed to prevent spillage of sewage into the river. We recommend it very strongly.

Mr. Sinclair made a motion to send back a favorable 8-24. Ms. DelDebbio seconded. Motion passed unanimously on a voice vote.

D. Request for release, bond in lieu of site plan compliance, in the amount of \$36,760, 60 Industrial Drive, SPR #1514.

Staff supports this. Mr. Sinclair made a motion to approve. Mr. Chaplinsky seconded. Motion passed unanimously on a voice vote.

E. Release of Maintenance bond, S #1217, Cornfield Estates - \$37,600.

Staff supports this. It's been inspected and everything is in order. Ms. DelDebbio made a motion to approve. Mr. Chaplinsky seconded. Motion passed unanimously on a voice vote.

F. 450 Old Turnpike Road, SPU #466, Request for one year extension - multiple buildings on one site.

This is the Chuck & Eddy's site. They've started site work but they have not started any buildings. They're asking for a one year extension so they can get started with the construction.

Mr. Sinclair made a motion to approve. Ms. Miceli seconded. Motion passed unanimously on a voice vote.

G. A-Grace Properties, LLC, request for 5 year extension, 97 North Main Street, SPR #1394.

This property has not gotten started yet with construction. They're asking for an extension. We recommend it.

Mr. Sinclair made a motion to approve. Ms. DelDebbio seconded. Motion passed unanimously on a voice vote.

H. 609 North Main Street, LLC, request for 90 day extension to file Mylar, 609 North Main Street S #1276.

Staff supports this. This is normally a minor matter. Mr. Chaplinsky made a motion for the 90-day extension. Mr. Sinclair seconded. Motion passed unanimously on a voice vote.

I. Adoption of 2010 meeting schedule.

The Chair wanted to wait for the Town Planner to return. Mr. Chaplinsky made a motion to table. Ms. DelDebbio seconded. Motion passed unanimously on a voice vote.

8. Items to Schedule for Public Hearing

None at this time.

9. Administrative Reports

- Intersection redesign: West/West Center Street

Mr. Tranquillo explained one of the commissioners at the last meeting mentioned the intersection of West Street and West Center. Coincidentally, the Town Council also brought that intersection up in terms of the offset design existing there now which causes turn movements problems.

My office did a very preliminary sketch which I'll put up on the board.

Discussion of the proposed redesign.

It's very early in the process and the Council has to decide if they want to pursue this. If they do, then you'll see it again in the future.

More discussion on the proposed redesign and the benefits of the redesign.

It does require quite a bit of takes in this corner and this corner (indicating). So we'd have to negotiate with the property owners. This has a long way to go before becoming reality.

Other Reports:

Attorney Sciota brought up the fact that the Town Planner is sending out a packet which I'm passing out right now. It has to do

with a question for the Dunkin Donuts on 433 Queen Street. It's a question for the commission as to whether you want to ask for an SPU or just go with site plan.

Mr. Tranquillo said staff had a request to install an ATM kiosk on the Dunkin Donuts property across from the Wood 'N Tap. Mary looked at this and she was concerned that now we are adding a second principal use there. Her opinion is that the kiosk is a second principal use. It will generate quite a bit of traffic at an already busy site.

Discussion.

After discussion, the unanimous consensus was to require an SPU and a site plan.

#### 10. Receipt of New Applications

- Mat Florian for a potential Tim Horton's across from Derynoski School where the excavation is occurring now.

Other Issues the Commission wishes to bring up

Ms. Miceli brought up the cease & desist order for the Prospect Street, True Farm, with regard to the removal of the goats. I understand he doesn't have the acreage necessary for what we consider a farm. I know he originally did have the acreage and over the years he subdivided. I feel that area is a mainstay in town.

According to the neighbors I've spoken with, everything is hunky-dory. People are happy with the goats down there. The cease & desist was not issued, I understand, as a result of neighbor complaining. Although there apparently have been some ongoing issues with this location. I understand there's farm equipment there that needs to get cleaned up or moved.

Is there a compromise we can come up with here? There's six goats. Three of them are pregnant. The six original goats, can they stay until they die but the babies have to go. Clean up the farm equipment, clean up the unsightly area. Let's compromise with this family.

Attorney Sciota suggested some sort of a grandfather provision from a large parcel of land to a smaller parcel of land. You don't want to open up half acre parcels to farm animals.

Attorney Sciota said he would speak with the ZEO and the Planner to see if there is some sort of grandfather language.

Discussion.

Mr. Sinclair added if we gave subdivision permits out and no one told him to get rid of the goats, wouldn't he be grandfathered in? Attorney Sciota said he would have to check. Normally what happens when you give subdivision, you bring the property into conformity. That's the whole point of subdivision. I doubt there is a legal nonconforming use there but I will certainly look into it.

Mr. Chaplinsky brought up two items, both for Mr. Tranquillo. Regarding the parking lot across from Derynoski, adjacent to the library, at the top of the hill, there's a business, a medical office, where the contractor has excavated close to up to the property line. I don't think on the site plan there is a provision to put up a railing up there or a fence. There's two or three parking spaces that are very close (6-7 feet away) to the edge of that slope. I would have concern if a car went over that. It is an immediate safety issue. Maybe put some stones up there, some rocks, something to block the spaces off.

Discussion.

Mr. Tranquillo said he contacted the contractor and it has already been done. My staff said it was done.

The second issue is Spring Street. I know we approved and we are working on repaving Spring Street. We did a good job regarding that. We put in on the south side of the street some drainage catch basins there. I've received calls on the north side of the street where we have the culvert and from the new crown in the road, since we've opened that road up, that road now goes right up to the culvert which in my opinion is 3 to 4 feet deep for several hundred feet. It looks to me like an issue of the car went off the road, it wouldn't just be going into the dirt, it would be going down into a pretty steep culvert. I have serious concerns about that.

Is there a way we can curbs up with areas for water to still come into the culvert? So if the car did come close to the edge, it'd be a little bit more of a safety zone rather than a sharp drop off into the culvert.

Discussion.

Mr. Tranquillo said that was a very good suggestion. We will put curbing on the north side as that will force people; guide them away from the edge. We will put that in.

Discussion.

The Chair noted one item. First and foremost, I want to thank the commission for the opportunity to serve as Chairman. I've been on this board for eight years and I hope that I do nearly as well as the Chairmen that preceded me.

Mr. Oshana, thank you for your service for the past few years. I've learned under the tutelage (sp) of names like Kenefick, Longo

and Mr. Oshana. Hopefully, I can do half as good a job as you guys did.

I appreciate that. I think we have a nice little commission here and let's do some good work.

Good luck to Ms.Miceli who went on to bigger and better!

#### 11. Adjournment

Mr. Sinclair made a motion to adjourn. Ms. DelDebbio seconded. Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 7:45 o'clock, p.m.)