

**PLANNING & ZONING COMMISSION REGULAR MEETING MINUTES  
MAY 4, 2020, 7:15 P.M.  
HELD VIRTUALLY VIA INTERNET AND PHONE**

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**Present:** Ken Edgar, Chairman; Don Saltzman, Vice Chairman; Jane Connolly, Sally Korsh, Harry Falber, Britta Lerner, Richard Wolf

**Also Present:** Tracy Kulikowski, Land Use Director, members of the public

**Digitally Recorded [held virtually due to the COVID-19 State of Emergency]**

7:21 p.m. Chairman Edgar called the meeting to order.

**RECEIPT OF APPLICATION: PETITION TO AMEND THE ACCESSORY APARTMENT REGULATIONS, SPECIFICALLY SECTION 345.4 OF THE WESTON ZONING REGULATIONS, TO INCREASE THE MAXIMUM SIZE OF ACCESSORY APARTMENTS FROM 800 SQUARE FEET TO 1,000 SQUARE FEET [PETITION BY JOSEPH AND LOIS RYAN, 13 BERNHARD DRIVE] [20-03]**

Joseph and Lois Ryan of 13 Bernhard Drive came before the Commission and presented the application. The Commission and the Ryans discussed the importance of a petition that is precise and complete.

Jane Connolly made a motion that the Commission receive the Petition to Amend the Accessory Apartment Regulations, specifically Section 345.4 of the Weston Zoning Regulations, to increase the maximum size of accessory apartments from 800 square feet to 1,000 square feet [Petition by Joseph and Lois Ryan]. Seconded by Sally Korsh. Hearing no further discussion and a roll call vote, all in favor, the motion carried (7-0).

Chairman Edgar asked Ms. Kulikowski, Land Use Director, to provide the Commission with more information on accessory apartments in surrounding towns for discussion at the next meeting. No hearing date set.

**DISCUSSION/DECISION: APPLICATION FOR LOT DEVELOPMENT PLAN APPROVAL; 87 WESTON WOODS WAY, LOT 5 OF THE WESTON WOODS SUBDIVISION [MARCO FERRIAND, MARK OCHMAN, LS/PE FOR MJL REALTY INVESTMENTS, LLC] [20-04]**

Mark Ochman, professional engineer, of Ochman Associates, Inc., representing MJL Realty Investments, LLC, came before the Commission to discuss the application. The property is 2.002 acres and is located at the end of the cul-de-sac of Weston Woods Way. The applicant is proposing to construct a 2.5 story, single family, four (4) bedroom residence, driveway, front porch, rear deck and related site improvements. The property will be served by an onsite well and septic system. The proposed site plans, prepared by Ochman Associates, Inc., dated July 1, 2019 and last revised April 25, 2020; the proposed house plans, prepared by Plans Ahead, LLC, last revised February 21, 2020; and a drainage report, prepared by Ochman Associates, Inc., dated April 25, 2020, were reviewed by the members. Mr. Ochman stated that the plans have been approved by the Westport/Weston Health District. Discussion ensued. Mark clarified that where there are steep slopes, the site will have a double silt fence with hay bales in between for added protection. The members agreed that this installation should be included in the lot development bond.

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Discussion continued. Ms. Kulikowski stated that the Conservation Planner will review the site plan and the proposed construction activity for either a sign-off or a referral to the Conservation Commission and the members agreed that this should be a condition of the approval. Ms. Kulikowski commented that the general contractor, Marco Ferriand, will be submitting plans for the home's sprinkler system to the Town Fire Marshal. The Commission reviewed a draft approval and discussion continued.

Jane Connolly made a motion that the Commission approve the application for a Lot Development Plan Approval, with conditions; 87 Weston Woods Way, Lot 5 of the Weston Woods Subdivision [Marco Ferriand, Mark Ochman, LS/PE for MJL Realty Investments, LLC], as presented to and amended by the Commission on the record. Seconded by Harry Falber. Hearing no further discussion and a roll call vote, all in favor, the motion carried (7-0).

**DISCUSSION/DECISION: LOT LINEADJUSTMENT, 142 STEEPHILL ROAD, WITH 140 STEEPHILL ROAD AND 144 STEEPHILL ROAD, PURSUANT TO THE CONDITIONS OF THE 2000 SUBDIVISION APPROVAL (REVISED PARCEL B-2 ON MAP 3530) AND DRY HYDRANT ALTERNATIVE [JONATHAN ROGERS, ELENA & INNOKENTI HALIULIN AND ATTORNEY GLENN MAJOR]**

Attorney Glenn Major, representing property owners Jonathan Rogers [140 & 142 Steephill Road] and Elena & Innokenti Haliulin [144 Steephill Road], came before the Commission to discuss the request for a lot line revision and an alternative to the sprinkler system required to satisfy the conditions of the 2000 subdivision approval. Attorney Major spoke about his clients' negotiated efforts to enhance the approach to 142 Steephill Road so that the lot's driveway enters closer to the middle of the parcel; thus, farther away from 144 Steephill Road's property line and septic leaching area. Attorney Major discussed the proposal to convey pieces of land between the three lots in order to achieve this better plan of development. The members reviewed a proposed map, prepared by Dennis A. Deilus, Land Surveyor, dated December 21, 2011 and last revised April 16, 2020, depicting the pieces to be transferred and the new property lines for each lot. Discussion ensued between Attorney Major and the Commission. Attorney Major confirmed that with this proposal, each lot would remain over two (2) acres and no zoning violations would be created.

Vice Chairman Saltzman made a motion that the Commission move the discussion/decision of the Dry Hydrant Alternative to the next Agenda Item, Application for Lot Development Plan Approval, 142 Steephill Road. Seconded by Jane Connolly. Hearing no further discussion and a roll call vote, all in favor, the motion carried (7-0).

Chairman Edgar made a motion that the Commission approve the lot line adjustment to 142 Steephill Road with 140 Steephill Road and 144 Steephill Road, pursuant to the conditions of the 2000 Subdivision Approval (Revised Parcel B-2 on Map 3530) as illustrated and presented on the Map prepared for Innokenti & Elena Haliulin, prepared by Dennis A. Deilus, Land Surveyor, dated December 21, 2011 and last revised April 16, 2020. Seconded by Sally Korsh. Hearing no further discussion and a roll call vote, all in favor, the motion carried (7-0).

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**DISCUSSION/DECISION: APPLICATION FOR LOT DEVELOPMENT PLAN APPROVAL AND A DRY HYDRANT ALTERNATIVE, 142 STEEPHILL ROAD [JONATHAN ROGERS AND ATTORNEY GLENN MAJOR] [20-05]**

Jonathan Rogers, applicant, presented his request for a lot development plan approval for a 2.5 story single family, four (4) bedroom residence, driveway and related site improvements. The members reviewed the applicant's proposed plot plan, prepared by J. Edwards & Associates, LLC, dated November 13, 2019 and last revised April 20, 2020; house plans and a drainage report, prepared by J. Edwards & Associates, LLC, dated April 20, 2020. Mr. Rogers stated that although a subdivision condition requires that the residence have a fire sprinkler system, he is requesting that a dry hydrant at 12 Tannery Lane be considered as an alternative. Mr. Rogers has spoken with the Town Fire Marshal, John Pokorny and via an email to the Land Use Director, dated April 20, 2020, Mr. Pokorny confirmed that although the dry hydrant needs maintenance, it is close enough to 142 Steephill Road to be used as an alternate compliance. Discussion ensued between the applicant and the members. Mr. Rogers stated that he would perform the maintenance on the dry hydrant so that it is operational and can be used as fire protection for the building lot. The members asked questions. Ms. Kulikowski stated that the Fire Department would test the hydrant to make sure it is functional. Attorney Major joined the discussion. Mr. Rogers stated that with the approval of the lot line adjustment, the driveway can be laid out in a way that will do the least damage to the mature trees that are on the property. The members reviewed a draft approval.

Richard Wolf made a motion that the Commission approve the application for a Lot Development Plan Approval and a Dry Hydrant Alternative, with conditions; 142 Steephill Road [Jonathan Rogers and Attorney Glenn Major] as presented to the Commission. Seconded by Jane Connolly. Hearing no further discussion and a roll call vote, all in favor, the motion carried (7-0).

**DISCUSSION/DECISION: REQUEST FOR SUBDIVISION BOND RELEASE, PHILLIPS QUAIL RIDGE SUBDIVISION, QUAIL RIDGE ROAD (PRIVATE ROAD) [GEORGE AND EMERSON PHILLIPS, EXECUTORS OF THE OLIVE PHILLIPS ESTATE AND TRUSTEES OF THE OLIVE PHILLIPS TRUST U/A AND CAROLYN M. ARMBRUST, TRUSTEE OF THE THOMAS PHILLIPS TRUST U/A]**

Attorney Carolyn Armbrust, Trustee of the Thomas Phillips Trust and Administrator of the Olive Phillips Estate, came before the members to present a chronology of key events leading to this request. Ms. Armbrust stated this request is for the Commission to release the remaining subdivision bond of \$16,473.00 [\$4,575.00 for the setting of iron pins and monuments; \$1,500.00 for a Road As-Built survey; \$10,398.00 for 15% contingency]. Ms. Armbrust stated that the bond is in the name of Olive Phillips and is the only pending item in her Estate. The members reviewed a letter from Brautigam Land Surveyors, P.C. dated April 10, 2019, indicating that 23 iron pins and 16 monuments were set. Ms. Armbrust spoke about a letter, dated July 9, 2019, from the Land Use Director to Ms. Armbrust, outlining items that must be addressed prior to the bond release. The members analyzed an email from John Conte, Town Engineer, dated April 28, 2020, indicating that on this day, he inspected the residence at 2 Quail Ridge and determined that the driveway fronting on Georgetown Road had been properly abandoned and that this driveway had been fenced off, landscaped with wood chips and that boulders had been placed in front of the fencing, making the driveway no longer functional. The

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Commission reviewed the Road As-Built, prepared by Brautigam Land Surveyors, dated March 5, 2019 and last revised July 29, 2019. Ms. Armbrust commented that the septic system for Lot 1, 2 Quail Ridge, is not a conditional element for the bond release as it is not a listed item on the subdivision bond.

The following members of the public spoke.

Gokhan and Shantha Ozgen, 1 Quail Ridge, stated that they are opposed to the release of the bond balance. Mr. Ozgen expressed his concerns about the location and effectiveness of the septic system for 2 Quail Ridge and the appropriateness of the drainage system for Quail Ridge.

Andrea Feirstein, 3 Quail Ridge, gave her objections to the release of the bond. Ms. Feirstein commented on the irrelevancy of the bond release with the settlement of the Olive Phillips Estate. Ms. Feirstein referenced the July 9, 2019 letter from the Land Use Director to Ms. Armbrust which addressed the location of the septic system.

Irine and Sebastian Gibilisco, 5 Quail Ridge, spoke about their objections to the bond release. Ms. Gibilisco questioned the validity of the submitted Road As-Built survey. Ms. Gibilisco commented on the proximity of 2 Quail Ridge's septic system to the drainage for Quail Ridge and the alleged possibility that the system is connected to the drainage.

Ms. Armbrust came forward and gave a response to these objections.

Emerson Phillips, 2 Quail Ridge, spoke about his relationship with his neighbors and their allegations about a public health issue.

Mr. Ozgen reminded the Commission of an email, dated in May, 2019, from Mark Cooper, Director of Health at the Westport/Weston Health District, to Ms. Armbrust, which discussed the septic system.

The legal opinion of prior Town Attorney, Pat Sullivan, was requested by the members. Ms. Sullivan stated that the fact that this item is the remaining asset to close the Olive Phillips Estate is irrelevant to this analysis. The alleged health issue is irrelevant to the bond. If there is clear evidence of a health issue, Ms. Sullivan commented that it would need to be enforced by the Westport Weston Health District. Attorney Sullivan discussed the function of a subdivision bond and indicated that the remaining specific elements of the bond are the only items which should be reviewed for compliance and release. Discussion ensued with Attorney Sullivan and the members. Ms. Sullivan discussed the process of a bond release and the challenges to the release, in the form of an appeal. Attorney Sullivan commented that the release of a bond cannot be used as leverage to address an issue that is not a specific element of the bond. Discussion continued. The members asked for clarification on the components of a satisfactory Road As-Built survey. Ms. Sullivan replied that reliance by the Town Engineer that the submitted survey is satisfactory is important to releasing the bond element. Chairman Edgar stated that he would like to obtain further clarification from the Town Engineer that the submitted survey meets the specifications of a Road As-Built survey.

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Ms. Gibilisco read a portion of the Subdivision Approval which discussed the subdivision bond.

Discussion continued between Attorney Sullivan and the Commission.

Mr. Ozgen spoke about the portion of Ms. Kulikowski's July 9, 2019 letter to Ms. Armbrust that referenced the septic system issue. Mr. Ozgen asked for a definition of the 15% contingency.

Chairman Edgar made a motion that the Commission approve the Request for a Subdivision Bond Release, Phillips Quail Ridge Subdivision, Quail Ridge Road (private road) [George and Emerson Phillips, Executors of the Olive Phillips Estate and Trustees of the Olive Phillips Trust U/A and Carolyn M. Armbrust, Trustee of the Thomas Phillips Trust U/A] as discussed on the record. Seconded by Jane Connolly. Following a brief discussion, Chairman Edgar amended his motion to add that the Commission delegate to the Town Engineer the final approval that the Road As-Built is satisfactory, as a condition to the release of the bond. Seconded, as amended, by Jane Connolly. Hearing no further discussion and a roll call vote, all in favor, the motion carried (7-0).

9:25 p.m.: Break

**DISCUSSION/DECISION: REQUEST FOR EXTENSION OF ZONING PERMIT, 98 GEORGETOWN ROAD [ATTORNEY PETER OLSON FOR SAM LAMPERT AND ARCTIC CONSTRUCTION, LLC]**

Attorney Peter Olson, representing the property owner, came before the Commission to request a one (1) year extension of the zoning permit. Mr. Olson gave a chronology of events that occurred including the Planning & Zoning Commission's approval of the zoning permit application on April 16, 2018, the subsequent appeal to the Zoning Board of Appeals [ZBA], the upheld decision by the ZBA and the notice of ZBA's decision in The Weston Forum, on July 5, 2018. Attorney Olson stated that his client, has been unable to begin construction on 98 Georgetown Road. Mr. Olson added that the current situation with COVID-19 has made commencement on 98 Georgetown Road difficult for the last two months and for the foreseeable future. Attorney Olson clarified that this is not a request for a new zoning permit; it is a request to extend the existing permit for one (1) year, and that questions raised by a neighboring property owner, including the Conservation Commission's duties and the ownership of the property, are irrelevant to the discussion. Ms. Kulikowski read the Weston Zoning Regulations, Section 411.1 Expiration of Zoning Permits. Discussion between the Commission, Attorney Olson and Ms. Kulikowski continued. Chairman Edgar stated that he would like the Town Attorney to review the materials submitted by the neighboring property owner and provide the Commission with a written legal opinion that nothing expressed in these materials precludes the Commission from granting the requested extension. Town Attorney, Nicholas Bamonte, joined the discussion. Attorney Bamonte agreed that his firm will provide the Commission with such a written legal opinion. The members agreed to discuss/decide this matter at the next meeting. No motion made.

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**DISCUSSION/DECISION: TOWN PLAN OF CONSERVATION AND DEVELOPMENT –  
NEW DATE & FORMAT FOR THE PUBLIC HEARING ON DRAFT PLAN**

Chairman Edgar stated that WestCog provided a complimentary report on the Draft Town Plan. No negative comments were received from the Board of Selectmen. The members agreed to move forward with a virtual public hearing, possibly in June.

**APPROVAL OF MINUTES: FEBRUARY 3, 2020**

Hearing no comments, the Commission accepted the Minutes of February 3, 2020.

**OTHER BUSINESS:** none

Jane Connolly made a motion that the Commission adjourn the meeting. Seconded by Sally Korsh. All in favor, the motion carried (7-0).

10:22 p.m. Meeting adjourned

Submitted by: AnnMarie Fontana, Admin. Assistant