

PLANNING & ZONING COMMISSION REGULAR MEETING MINUTES
JUNE 4, 2018, 7:15 P.M.
TOWN HALL ANNEX CONFERENCE ROOM

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

Not Present: Britta Lerner

Also Present: Ira Bloom, Town Attorney; Tracy Kulikowski, Land Use Director; members of the public

Digitally recorded

7:18 p.m. Chairman Edgar called the meeting to order.

DISCUSSION/DECISION: REQUEST FOR 1-YEAR EXTENSION TO COMPLETE ROAD IMPROVEMENTS IN CONNECTION WITH THE WESTON WOODS SUBDIVISION, MAP 3765, 381-397 NEWTOWN TURNPIKE, CONNECTICUT GENERAL STATUTES SECTION 8-26C(e). CURRENT DEADLINE IS DECEMBER 21, 2018. [MAX BENDER, WILD THINGS DEVELOPMENT, LLC]

The property owner, Max Bender of Wild Things Development, LLC, came before the Commission to request a one-year extension to complete road improvements in connection with the Weston Woods Subdivision. A brief history of the subdivision approval was presented by the Land Use Director. CGS Section 8-26c and subdivision approval expirations were discussed. This six-lot subdivision was approved in 2009, requiring all subdivision work, absent any extensions, be completed by December 21, 2018, pursuant to CGS Section 8-26c(e). Mr. Bender indicated that while he anticipates all road work construction will be completed in 2018, a one-year extension would provide time should the work take longer than anticipated. A one-year extension would extend the deadline to December 21, 2019. The subdivision plan for Weston Woods was reviewed.

Jane Connolly made a motion that the Commission approve the Request for a One-Year Extension to Complete Road Improvements in Connection with the Weston Woods Subdivision, Map 3765, 381-397 Newtown Turnpike. Seconded by Sally Korsh. Vote in favor (6-0). Britta Lerner absent.

DISCUSSION/DECISION: ROAD NAME APPROVAL, WESTON WOODS WAY IN THE WESTON WOODS SUBDIVISION, MAP 3765, 381-397 NEWTOWN TURNPIKE [MAX BENDER, WILD THINGS DEVELOPMENT, LLC]

Mr. Bender came forward to request a Road Name approval for the road currently being built in connection with the subdivision work for the Weston Woods Subdivision. He proposed the road be named Weston Woods Way. The existing driveway is being improved to a 20-foot wide paved road. The original property owner had not selected a road name when the Planning & Zoning Commission approved the subdivision in 2009. Subdivision regulations require road name approval by the Fire Marshal and the Police Chief prior to Planning & Zoning Commission approval. Ms. Kulikowski stated that the Fire Marshal and the Police Chief have both granted approval for the road name. Weston EMS indicated no foreseeable issues with the name choice.

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Sally Korsh made a motion that the Commission approve the Road Name, in the Weston Woods Subdivision, Map 3765, 381-397 Newtown Turnpike, to Weston Woods Way. Seconded by Jane Connolly. Vote in favor (6-0). Britta Lerner absent.

DISCUSSION/DECISION: PERMISSION TO MAINTAIN ABOVE GROUND UTILITIES FROM NEWTOWN TURNPIKE TO SERVE EXISTING HOUSE, LOT 1, WESTON WOODS SUBDIVISION, MAP 3765, 397 NEWTOWN TURNPIKE [MAX BENDER, WILD THINGS DEVELOPMENT, LLC]

Max Bender provided the Commission with an overview of the utility service that is currently being provided to this property and his conversations with Eversource Energy. Mr. Bender indicated that service is provided above-ground via a utility pole on Newtown Turnpike, which is, at most, 100-150 feet from the house. His request is to maintain the existing above-ground utilities for 397 Newtown Turnpike, rather than run underground utilities from the road currently being built. All tree branches and limbs that would impede the above-ground utilities to this property have been removed.

The Commission asked questions and a dialogue ensued between the members, Mr. Bender and Ms. Kulikowski. Attorney Bloom joined the discussion.

The subdivision approval condition regarding underground utilities was discussed.

The Commission discussed Section 3.14, Waivers, of the Weston Subdivision Regulations and its authority to apply the Waivers provision. The conditions for granting the waiver were discussed. Mr. Bender stated that there is a conservation easement and a brook where construction would have to occur to provide underground utilities. Attorney Bloom's view was that these natural conditions could create an exceptional difficulty in complying with the underground utilities condition of the subdivision approval.

Jane Connolly made a motion that the Commission grant Permission to Maintain Above-Ground Utilities from Newtown Turnpike to Serve Existing House, Lot 1, Weston Woods Subdivision, Map 3765, 397 Newtown Turnpike. Should there be a Relocation of the House's Footprint, the Utilities Shall be Installed Underground. With the Commission's finding that, under Section 3.14 of the Weston Subdivision Regulations, the criteria and conditions for granting the waiver have been met and that the presence of the conservation easement and a brook constitute an exceptional difficulty, the motion was seconded by Chairman Edgar. Vote in favor (6-0). Britta Lerner absent.

A NON-BINDING PRE-APPLICATION REVIEW FOR THE FOLLOWING PROPERTY - LOTS 4, 5 AND 6 ON MAP 3765, WESTON WOODS SUBDIVISION, 381, 383 AND 389 NEWTOWN TURNPIKE AND LOT 2B, MAP 2494, POWDER HORN HILL [MELISSA TEITEL]

The Commission conducted a non-binding pre-application review of an application for property development located on Lots 4, 5 and 6, Map 3765, Weston Woods Subdivision, 381, 383, 389 Newtown Turnpike and Lot 2B, Map 2494, Power Horn Hill.

JN~ 3:03PM

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DISCUSSION/DECISION: PROPOSED DELETION OF §240-27 FROM CHAPTER 240, ZONING REGULATIONS OF THE TOWN CODE, MUNICIPAL USES ON TOWN-OWNED LOTS, ALSO KNOWN AS, SECTION 341.7 OF THE WESTON ZONING REGULATIONS, MUNICIPAL USES ON LOTS OWNED BY THE TOWN OF WESTON [18-07]

Chairman Edgar requested Ira Bloom, Town Attorney, join the Commission's discussion and assist in completing its analysis. Mr. Bloom provided his views to the members. Attorney Bloom stated that the zoning provision is inconsistent with the ordinance found in the Town Code, Chapter 182: Town Property, which states that all municipal property of the Town is exempt from zoning regulations. He commented that this inconsistency can cause legal issues. Mr. Bloom stated that in his research, this provision has not been enforced since its addition to the regulations in 2008. Attorney Bloom cited the 2013 MacKenzie appellate court case decision. He explained that Section 341.7G, Waiver, was inconsistent with the MacKenzie decision which ruled that waivers to zoning regulations should come from a Zoning Board of Appeals, and thus the provisions being considered for deletion might well be invalid in any event. A dialogue ensued between the members and Attorney Bloom.

Jane Connolly made a motion that the Commission delete §240-27 from Chapter 240, Zoning Regulations of the Town Code, Municipal uses on Town-owned lots, also known as, Section 341.7 of the Weston Zoning Regulations, Municipal Uses on Lots owned by the Town of Weston, for the reasons discussed and set forth on the record. Seconded by Chairman Edgar. Vote in favor (6-0). Britta Lerner absent.

DISCUSSION/DECISION: REFERRAL FROM CODE ENFORCEMENT OFFICER; LETTER FROM EDWARD STRAUSS TO JAMES PJURA, DATED JANUARY 10, 2018 & LETTER FROM EDWARD STRAUSS TO PLANNING & ZONING COMMISSION, DATED FEBRUARY 5, 2018; 27 & 29 ROGUES RIDGE RD [LOTS 8A & 9A, MAP 2778] [18-03]

Ms. Kulikowski stated this agenda item had been withdrawn by the property owner.

DISCUSSION: TOWN PLAN OF CONSERVATION AND DEVELOPMENT-REQUEST FOR PROPOSALS RECEIVED

Ms. Kulikowski confirmed that six Proposals were received and they were opened by the Town Administrator and the Land Use Director, on this date at 4:00 p.m. The Commission agreed to hold a Special Meeting on June 11th and tentatively on July 2nd to continue the discussion.

APPROVAL OF MINUTES: MAY 7, 2018

Hearing no comments, the Commission accepted the Minutes of May 7, 2018.

OTHER BUSINESS: None

Chairman Edgar made a motion that the Commission adjourn the meeting. Seconded by Jane Connolly. Vote in favor (6-0). Britta Lerner absent.

JN- 3:03PM

8:43 p.m. Meeting adjourned

Submitted by: AnnMarie Fontana, Administrative Assistant