



The Planning Commission

Town of New Fairfield

New Fairfield, Connecticut 06812

Special Meeting
Monday, February 1, 2010
Library Community Room

MINUTES

Commissioners Present: Mike Daood, Chair, Greg Porpora, Vice Chair, Cynthia Ross-Zweig (until 6:35), Paul Bruno and Bob Murtha

Commissioners Absent:

Alternates Present:

Alternates Absent: Chris Gould and Donna Byers

Call to Order: 5:30pm

Public Comment

OLD BUSINESS

Request for an Extension on the Subdivision Approval Time for High Winds Road Resubdivision, aka Dunham Ponds

Attorney Thomas Van Lenten approached the Commission and explained as of January 20, 2010 the foreclosure process was completed and High Winds Road Resubdivision is now owned by Somers Development LLC, which is a solely owned subsidiary of Union Savings Bank. Somers Development LLC owns some rights to Phase 1 of the project and all rights to Phase 2. Has had only 10 days to get up to speed and would like additional time to verify they have all the facts. They have had communications with the Condominium Association concerning the absence of a retaining wall and erosion problems to the rear of some units. He has retained consultants to find out the problems they will be dealing with and they have had only 24 hours to look at things.

He has spoken to Cheryl Reedy on the retaining wall and erosion issues and weather or not the Town has enough money left from the bond to fix these problems. Currently Somers LLC does not have all of the As Built Surveys and is working Town Counsel to

see what they need what is yet to be done including preparing the road for Town acceptance. The Wetlands Permit has already expired and they are in the process of completing an Inland/Wetlands application. There is a meeting on Thursday February 4 2010 with the Department of Public Utility Control (DPUC) in Hartford and New Fairfield will send counsel to represent them. The meeting was initiated by an outsider and there are issues with the water system in this development as well. Attorney Van Lenten stated Somers Development LLC has only had 10 days to address issues of erosion, septic, water and the entire infrastructure of the development and it is for these reasons that he is requesting an extension to the Subdivision Approval Time, to at least September noting the more time the better.

The Commission discussed that he is currently examining documentation that certifies work that has been done since the bond take over. The Town has given him updates as to what the money has been used for but they have not received As Built Drawings. They received one drawing from Hartford on the water system, but it's not an As Built. The water system needs a certified operator outside of the infrastructure completion. Then an inventory needs to be done so they know how old the emergency generator is and when it was last serviced etc. They believe the septic system is working fine, but with out an As Built he doesn't know.

Discussion followed on time limits. An applicant has 5 years from the date of the Approval Resolution to complete the requirements of the Approval Resolution and at the discretion of the Planning Commission may receive up to an additional 5 years. The Approval Resolution for High Winds Road Resubdivision is dated March 24, 2003.

Mike Daood asked if there was any public comment—as follows:

Cheryl Reedy: They (Dunham Pond Association) are thrilled the foreclosure process has been completed and they are now dealing with a community bank. However she is requesting the Planning Commission give the shortest reasonable extension possible. The reasons being that the new owner, Somers Development LLC is responsible for plowing and maintaining the roads and the Condo Association is still paying for this. Over the past years the Condo Assoc has paid over \$8,000.00 for maintaining and repairing the operation of the Water System including a maintenance contract which now needs to be renewed. Although Somers Development is still looking at where the lines are drawn, they should immediately take over the maintenance and repair of the water system as the Condo Assoc. will no longer pay any electric, repair or generator repair bills. She has had ongoing conversations with Attorney Van Lenten since October and enough conversations for him to know that the Condo Assoc. expected these things to be taken over right away.

The approved site plan shows a retaining wall is required behind units 2 and 4 at the bottom of the slope in order to stabilize the slope. That retaining wall has never been built. As a result, the slope stability has been compromised and the slope is starting to collapse. The Town has put out to bid a retaining wall as well as repairing and stabilizing the slope and there is money to do this with the bond that was pulled. The structural integrity of the building will be compromised if the slope stability issue is not addressed

because the slope collapse is starting to get closer and closer to the building. They had hoped to have the work done before winter, and it really needs to be done in the spring ASAP. If Somers Development can show they will take care of issues in a timely manner they would be fine with a longer extension, but until they can prove themselves, she is requesting a shorter extension period.

John Hodge: stated he would like to clarify a couple of comments. The Town of New Fairfield had nothing to do with Phase 1. Concerning As Builts we don't have As Builts for Phase 1. Pursuant to the bond being pulled on Phase 2 the Town has As Builts for all the work it performed under the bond and he will authorize Tony Iadarola, Town Engineer to release the As Builts to him, now that we know they are really the owners. The Town does not own and has not done any work to High Winds Road, so we don't have any As Builts to the road. The last big issue is the retaining wall. John is under the impression via the bank officer, that he kept everyone aware of what was needed and everyone has copies of the bids that came back. It appears there maybe money left over from the bond, even after getting the erosion and retaining wall matters under control.

Attorney Van Lenten stated that he has tried unsuccessfully to obtain As Builts from the previous developer, Nathan Kahn, and the previous engineer, Peder Scott, who stated he would not speak with them until he was paid for the prior years he never received payment on. The bank now has to take a look at the billing and payments for the engineer and figure out the best way to proceed. Discussion followed on whether or not this engineer had been dismissed by the prior developer.

Mike Daood asked if there was any further public comment—none heard.

The Commission discussed how to proceed and if an extension is granted, how long would the extension be for. The Commission had success with the previous owner in holding them accountable through the extension process. Although the Commission is thrilled Somers Development has taken over this project, they still have a responsibility to make sure the improvements are completed. The Commission discussed how long an extension to give and the retaining wall is a priority. Due to the weather a two month extension may not be long enough to secure a substantial retaining wall. A 90 day extension would be adequate and bring us into warmer weather. The April meeting is April 26. Bob Murtha made a motion to grant a 90 day extension on the Subdivision Completion Time, with an update to be given at the March 22, meeting 2nd by Cynthia Ross-Zweig vote 5-0. Attorney Van Lenten requested that if the Commission cannot achieve a quorum at the April 26 meeting that the extension be extended to the next Special or Regularly Scheduled meeting of the Planning Commission.

NEW BUSINESS

8-24 Referral, 1 Haviland Hollow Road, Map: 8; Block: 2; Lot: 1 for the Tower for Town Wireless Emergency Radio Telecommunications Systems and Non-Municipal Telecommunications:

Mike Daood stated he was going to abstain from this vote. Cheryl Reedy approached the Commission and referred to the 2003 Plan of Conservation and Development. This tower

guarantees 95% coverage with 95% reliability. The closest development is Locust Glen. There is 750' and a mountain between the cell tower and the Locust Glen Development. This tower will connect with the ones behind Company A Fire House, the Girl Scout Camp on Bogus Hill Road and the proposed one at Ball Pond Fire House. It will allow OEM and fire to share a frequency. It will also be shared by Sherman and Putnam Counties. There will be a fence around the base of the tower and the weeds and vegetation will be allowed to regrow. The compound for the Tower will be 75' X 75'. The Town signed a lease with the YMCA in 1999 for \$1.00 a year. Private communication companies may sign on. This may generate \$125,000.00 to \$130,000.00 a year in revenue to the Town.

Discussion followed the Commission can only give a positive or negative referral. Greg Porpora made a motion to give a positive referral, 2nd by Cynthia Ross-Zweig vote 3-1-1. Bob Murtha voted against the motion and Mike Daood abstained. Cynthia Ross-Zweig left at 6:35pm

8-3a Referral to Amend Zoning Regulation 3.1.2 Special Permit Uses:

Attorney Raymond Lubus approached the Commission and read zoning regulations 3.1.2 into the meeting. 3.1.2A describes municipal uses of buildings and recreational areas. Attorney Lubus is proposing to change zoning regulation 3.1.2 by adding the letter "M" so the zoning regulation would be 3.1.2M and read into the meeting the language and requirements for 3.1.2M. Attorney Lubus stated his client was denied a special permit from the Zoning Commission because they felt that 3.1.2A specifically pertains to municipal recreational areas and that his client wants to construct a private recreational facility noting he has filed an appeal in Danbury Superior Court. Discussion followed if the zoning regulations were amended to include private use this could set precedence for private entities and if the interpretation is already in litigation it is best for the courts to decide. Mike Daood made a motion to give a positive 8-3a Referral as proposed 2nd by Paul Bruno, vote 2-2. Mike Daood and Paul Bruno were in favor; Greg Porpora and Bob Murtha were opposed. Motion failed.

8-3a Referral to Amend Zoning Regulations as Proposed by the CT DEP to Remain Eligible to Participate in the National Flood Protection Program

Maria Horowitz, ZEO discussed her memo to the Planning Commission dated January 19, 2010 as outlined. Discussion followed on the importance of the Town remaining eligible to participate in the National Flood Protection Program. Bob Murtha made a motion to give a positive 8-3a Referral to the Zoning Commission as outlined in Maria Horowitz's memo dated January 19, 2010, 2nd by Greg Porpora vote 4-0.

Adjourn

Greg Porpora made a motion to adjourn at 7:04pm, 2nd by Bob Murtha vote 5-0.