



The Planning Commission

Town of New Fairfield
New Fairfield, Connecticut 06812

Regular Meeting
Monday, November 23, 2009
Town Hall Conference Room

REVISED MINUTES

Commissioners Present: Greg Porpora, Cynthia Ross-Zweig, and Bob Murtha

Commissioners Absent: Mike Daood, Vice Chair and Paul Bruno

Alternates Present: Chris Gould and Donna Byers

Alternates Absent:

Call to Order: 7:35pm

Introductions of Elected Officials:

All of the Commissioners present introduced themselves.

Elevation of Alternates:

Greg Porpora made a motion to elevate Chris Gould and Donna Byers to full voting status, 2nd by Bob Murtha, vote 3-0.

Approval of Minutes

Bob Murtha made a motion to approve the Minutes for the October 26, 2009 Meeting as presented, 2nd by Cynthia Ross-Zweig, vote 2-0-3. Greg Porpora, Chris Gould, and Donna Byers abstained.

Correspondence/Announcements

Public Comment

OLD BUSINESS

Request for an Extension on the Subdivision Completion Time for Warwick Farms Subdivision, Peter Warwick and Gary Mead Applicants:

Greg Porpora read a letter from Gary Mead dated October 26, 2009 requesting an extension on the subdivision completion time for Warwick Farms Subdivision until December 31 2010 Gary Mead approached the Commission. The Commission discussed the extension they gave at the September meeting expires tonight, noting the reason for the 2 month extension is because the Commission felt there were safety issues that needed to be addressed. Gary Mead explained he has put in the railings and completed the other work. The Commission also discussed the Town Engineer; Tony Iadarola was at the last meeting and reported that all of the work the Commission had concerns about was completed. Bob Murtha made a motion to extend the subdivision completion time until December 31, 2010 2nd by Cynthia Ross-Zweig Vote 5-0

Greg Porpora read a letter from Gary Mead dated November 20, 2009 into the meeting. This letter requested the Planning Commission make a positive referral to the BOS to accept the two roads in the Warwick Farm Subdivision, Sugar Maple Lane and Buck Mountain Court as Town roads. The Commission discussed the roads cannot be considered for referral as they have not gone through one winter's endurance cycle. This matter has been referred to the Town Engineer. It will be the responsibility of the developer to come back to the Commission in the spring after Tony Iadarola has completed his inspections.

Request for an Extension on the Subdivision Approval Time for High Winds Road Resubdivision, aka Dunham Ponds, Bankroft Holdings Inc. a subsidiary of Union Savings Bank, applicant:

Greg Porpora read correspondence dated August 31 and September 10 2009 into the meeting which requested to extend the Subdivision Completion Time for 2 years and Nathan Kahn's Power of Attorney authorizing Union Savings Bank, its wholly owned subsidiaries and or their representatives to act on his behalf. The Commission discussed the history of this subdivision, noting in September they granted a 2 month extension to the Subdivision Completion Time. There is work that needs to be completed and other work that has been completed has elements that need to be addressed. The Town drew down on the million dollar bond (\$1,000,000.00) in September 2008 to finish the roads, put in a water system, address fire safety issues, and is in the process of working on a retaining wall. Two weeks ago there was a meeting in Hartford regarding the water system.

Attorney Thomas Van Lenten of Pinney and Payne representing Union Savings Bank approached the Commission. He stated Bankroft Holdings is no longer the developer. The Bank has created a new subsidiary just for this project and it is now Somers Development LLC. This company is recognized by the Court as the foreclosing party. Discussion followed a new subdivision application may have to be submitted as the Commission may not be able to grant an extension of a resubdivision if in fact there's been a change in ownership. Greg Porpora read correspondence dated November 23, 2009 from Attorney Van Lenten stating they would like to pursue an extension not under

Bankroft Holdings, but rather Somers Development LLC. Attorney Van Lenten stated he has had contact with Attorney Gail McTaggart on this matter, but did not have copies of those documents with him. Attorney Van Lenten stated there is no resubdivision of a resubdivision, there is no renaming of the subdivision, and there is no renaming of the ownership as both Bankroft Holdings and Somers Development LLC are wholly owned subsidiaries of Union Savings Bank. In January 2008 Nathan Kahn went into default on the loans to Union Savings Bank. Negotiations were carried on until October 2008 and at that point the bank filed for foreclosure seeking to foreclose on all 3 mortgages. These were 2 infrastructure mortgages and one bond mortgage, totaling over 4 million dollars (\$4,000,000.00). They negotiated from October 2008 to August 2009. As of November 20, 2009 the court approved the assignment of the Bank's mortgages to Somers Development LLC, who is now the plaintiff in the foreclosure action. The Bank has submitted an appraisal of over 1 million eight hundred thousand dollars (1,800,000.00). The Bank would like to move forward in such a manner so as to minimize any additional losses. The bank hopes to have a court appearance within two weeks and hopes to have this settled not less than 20 days from then which will bring them to on or around December 21, 2009.

Attorney Van Lenten indicated that as of 23 November 2009 Union Savings Bank does not own A.K.A. Dunham Pond and they have no legal ability to make decisions regarding the properties. Ownership will not transfer to the bank until the foreclosure process has completed. He also requested that the town provide documentation on work effort to date completed under the Bond regarding roads, safety improvements, residential concerns, etc. so as to establish a baseline of worked completed as part of ownership transfer to the bank.

The Commission discussed they may or may not give an extension tonight, but would like more information and have the opportunity to speak with Town officials, Gail McTaggart, and or other Town counsel on this matter. Attorney Van Lenten requested the Commission to extend the subdivision Completion Time for 2 months due to the upcoming holiday season and suggested Town counsel attend that meeting.

Bob Murtha made a motion to grant a two month extension noting the short extension is only so the Commission can get some more information and would like to speak with Town counsel and other Town officials regarding this matter.

Bond Reduction for Spruce Ridge Subdivision 57, 65, and 83 Short Woods Road, HH&P Developers LLC and Diana Browne—Peter Joram Applicant

Greg Porpora read a letter dated November 23, 2009 from Tony Iadarola into the meeting. The letter stated the applicant is requesting a bond reduction in the amount of three hundred fifty thousand dollars (\$350,000.00). Tony Iadarola has inspected the work and is recommending that the existing bond of \$482,458.00 be reduced to \$257,058.30. This includes a 10% maintenance security, four years of escalation, legal contingency, and the balance of the work that needs to be completed. The total amount of the bond reduction is \$225,399.70. Bob Murtha made a motion to approve the bond reduction as outlined in the Town Engineer's letter, 2nd by Cynthia Ross-Zweig vote 5-0.

NEW BUSINESS

2010 Meeting Dates and Application Deadline Dates

The Commission discussed changing the term “Application Deadline Dates” to include “Agenda and Application Deadline Dates”. This will avoid last minute requests for business that needs to come before the Board. Further discussion focused on putting notice into the paper stating that all business that needs to come before the Planning Commission must be submitted at least 14 days prior to the meeting date any items submitted after that date will be rolled over to the next meeting. Chris Gould made a motion to accept the 2010 meeting dates as amended and to put the public on notice that all business that needs to come before the Planning Commission must be submitted no less than 14 days prior to the meeting date any items submitted after that date will be rolled over to the next meeting 2nd by Cynthia Ross-Zweig vote 5-0.

Election of Officers: Tabled

Greg Porpora read an email from Mike Daood stating he would be OK being nominated as Chair provided no one else is interested in the position. Chris Gould read the By-Laws into the meeting which indicate the election of officers must be at the December meeting. The By-Laws also indicate the Vice Chair’s position is the Secretary/Vice Chair and perhaps the By-laws should be updated to drop the word “Secretary” from the Vice Chair’s position. Discussion followed on the Commissioners backgrounds.

Gift Policy:--Tabled

All Commissioners should review the Code of Ethics. If anyone needs a copy they can get it from the Town Clerk’s Office.

Adjourn

Greg Porpora made a motion to adjourn at 8:55pm, 2nd by Bob Murtha vote 5-0.