



# The Planning Commission

Town of New Fairfield  
New Fairfield, Connecticut 06812

**Regular Meeting**  
**Monday, July 28, 2008**  
**Library Community Room**

## MINUTES

**Commissioners Present:** Susan Chapman, Chair, Mike Daood, Vice Chair, Roger Wise and Paul Bruno,

**Commissioners Absent:** Bob Murtha

**Alternates Present:** Gregory Porpora

**Alternates Absent:** None

**Town Officials:** John Hodge, 1<sup>st</sup> Selectman, Tom Corbett, Selectman

**Call to Order:** 7:30pm

### Elevation of Alternates:

Mike Daood made a motion to elevate Greg Porpora to full voting status, 2<sup>nd</sup> by Paul Bruno, vote 4-0

### Approval of Minutes

Roger Wise made a motion to approve the May 15, 2008 Minutes, 2<sup>nd</sup> by Greg Porpora, Vote 3-0-2. Mike Daood and Paul Bruno abstained. The June 30, 2008 Minutes were tabled to the August meeting.

### Correspondence/Announcements

**Public Comment**—as follows:

Decker Omberg, 4 Heron View Drive: His deck is falling down for the 4<sup>th</sup> time. His patio has been taken apart and the entire situation is totally ridiculous. The builder has the permits to do the work but has not done it so as to meet the completion deadlines of other work for tonight's meeting. This kind of behavior is typical from the developer, Nathan Kahn. Please stop work from this developer.

Joan Mohr, 48 Heron View: Please do not close the door to public comment until we get to the High Winds Road Resubdivision aka Dunham Ponds.

Linda Padillo, 10 Paradise Court: Her parents are in their 90's and live at 2 Dunham Ponds. 3 years ago they were given a punch list of items that need to be completed such as a panel in the kitchen that does not meet the frame. The floor in the den is raised more than ½" and the developer removed the lolly column underneath the den saying the floor needs to settle, which it hasn't.

Cheryl Reedy, 1 Heron View Court: Referred to the letter from Tony Iadarola from last month, noting not all of the work; especially the fire tanks have not been completed.

Susan Chapman reminded the public that the Planning Commission is not charged with individual homeowners' issues and cannot address them. Homeowner issues need to be resolved through other channels.

Susan Chapman asked for any further public comment—none heard.

## **OLD BUSINESS**

### **Resubdivision of Lots 6C and 6D Rock Ridge Court, Gary Mead Applicant**

Susan Chapman read a letter dated July 8, 2008 from Gary Mead. This letter requested a 90-day extension on the approval time as well as amending the approval resolution to accept a Mylar for lots 6C & 6D in lieu of updating the entire subdivision map. Gary Mead stated most of the items in the Approval Resolution have been met, however the 1<sup>st</sup> 90-day extension will soon expire and this is just in case there are any unforeseen issues. Discussion followed this is the 2<sup>nd</sup> and final 90-day extension for this subdivision. We have correspondence from the Town Engineer indicating that there are no issues with accepting a Mylar for the two new lots in lieu of updating the original subdivision map. The Chairman of the Inland/Wetlands Commission must sign off on the Mylar prior to Planning, noting the BOS does not need to sign off on the Mylar.

Roger Wise made a motion to amend the original Approval Resolution to reflect the acceptance of the Mylar for the 2 new lots 6C and 6D in lieu of the entire subdivision map 2<sup>nd</sup> by Greg Porpora, vote 5-0. Mike Daood made a motion to grant the request of a 2<sup>nd</sup> and final 90 day extension, vote 5-0.

### **High Winds Road Resubdivision, aka Dunham Ponds, Nathan Kahn, applicant:**

Susan Chapman read an email that had been forwarded to the Planning Commission on July 28, 2008 from Attorney Robin Kahn. This email was originally from George Seitz; President of the Dunham Pond Condominium Assoc dated July 26, 2008. This email indicated the developer is making progress and the Assoc. would like for the Planning Commission to grant the developer an extension.

Susan Chapman read correspondence dated July 16, 2008 from Attorney Robin Kahn requesting a 90-day extension on the completion time.

Susan Chapman read correspondence dated July 2, 2008 from Town Attorney Jim Strub addressed to Attorney Robin Kahn regarding a clear Title to High Winds Road and the Planning Commission's authority to grant or deny extensions.

Peder Scott, Architect and Engineer: Submitted the following documents for the file:

- "Sequence of Construction" dated July 8, 2008
- "Work Completed for the July 28, 2008 Meeting"
- Drawings of Precast Concrete Fire Tanks from Rotondo Precast.

Mr. Scott discussed the above documents as outlined, noting all of them were sent to the Town Engineer, Tony Iadarola. Mr. Scott said Tony Iadarola approved the Sequence of Construction. The Commission requested documentation from Tony Iadarola regarding his approvals, and acknowledging receipt of the above documents. Mr. Scott will have to get this information.

Peder Scott discussed the drawings for the fire tanks. They will be precast rather than poured in place. The tanks will have a concrete pad underneath them. It will take two days to pour the 30,000 (thirty thousand) gallon tank and approximately 5 days for it to cure and one day to pour the 10,000 (ten thousand) gallon tank and 5 days to cure, noting the concrete pad will be ready in two weeks. He has contacted Rotondo Precast and they are preparing to deliver the larger tank. The smaller tank will be delivered when the 30,000 gallon tank is in place. Both tanks will have a 25 year warranty, which will be provided by a 3<sup>rd</sup> party. The Commission requested documentation that the tanks have been ordered. Mr. Scott did not receive anything from Rotondo Precast.

Mike Gill, Chairman Water Supply Committee: There is a second 30,000 (thirty thousand) gallon tank at the top of the property which is currently functional, noting he has concerns that it may fail given the other two tanks were not correctly installed. Mr. Gill reviewed the drawings of the fire tanks from Rotondo Precast, noting these are not the same drawings Bob Clark, Project Manager showed him a couple of weeks ago and prior to just now has never seen them. These drawings call for two 15,000 (fifteen thousand) gallon tanks connected by a pipe. Mr. Gill is concerned that if one of the tanks settles so much as ¼" then the tanks will leak. Mr. Gill expressed his concern and frustration with the fact that these tanks have been out of operation for over a month and there should be temporary means in place; such as an 8,000 (eight thousand) to 10,000 (ten thousand) water tanker on the property.

The Commission inquired who approved the fire tank design. Peder Scott said he did.

John Hodge, 1<sup>st</sup> Selectman: Prior to tonight's meeting the BOS voted to draw down on the Letter of Credit at any time and set parameters based on a schedule that was given to the BOS by the developer, stating the fire tanks would be installed by today July 28. The Road would be completed within 30 days from that BOS meeting and a signed contract within 14 days. Neither of those events has happened. John Hodge would like to have specific dates as to when this will be done.

Attorney Tom Parisot: Representing the Law Firm of Secor, Cassidy & McPartland approached the Commission. This law firm has received correspondence from Nathan Kahn's attorney, Neil Marcus indicating Rotondo Precast has put the delivery of the fire tanks on a cash on delivery (COD) and the developer has put in applications to Union Savings Bank, however, those applications have not been cleared indicating the developer does not have the money for the fire tanks.

The Commission discussed the safety issues, setting deadlines for the road and the fire tanks as well as the money issues involved. There is still work to be completed before the property owners along High Winds Road submit releases in favor of the Town pursuant to which they acknowledge that all work as been completed. The BOS can draw on the Letter of Credit which is independent of any Planning Commission decisions. Further discussion focused on the 90 day extension and members of the Commission were not willing to give such a long extension given the safety issues and the developer's lack of progress on these and other issues. The Commission would like to see a tanker full of water on site. The developer's Letter of Credit expires September 30, 2008 and so far has not been renewed. The Commission would like to meet with Counsel before moving forward.

Roger Wise made a motion to take a 10 minute break, 2<sup>nd</sup> by Greg Porpora, vote 5-0. Roger Wise made a motion to reconvene, 2<sup>nd</sup> by Mike Daood, vote 5-0.

Susan Chapman made a motion as follows: after consideration of the information presented and the continuing interest of the Planning Commission to have this project completed as originally approved, the Planning Commission moves to approve an extension of the High Winds Road Resubdivision for a period of 60 days. This extension is granted with the understanding that the Planning Commission is not waiving or prejudicing any rights or obligations it has to effectively oversee the completion of the bonded improvements associated with the project. Moreover, this extension is granted independent of any powers or actions that are within the jurisdiction of either the Board of Selectmen, the First Selectman, or the Zoning Commission, all of which may exercise their independent jurisdiction without the input of the Planning Commission. Further we are requiring the developer place an 8,000 to 10,000 (eight thousand to ten thousand) gallon tanker on site full of water located at the cul de sac of High Winds Road at the entrance to Heron View within 48 (forty eight) hours (July 30, 2008) and we want an update at the August 25, 2008 meeting. 2<sup>nd</sup> by Mike Daood; Vote 4-0-1, Susan Chapman, Mike Daood, Paul Bruno, Greg Porpora, voted in favor of the motion; Roger Wise abstained, motion carries.

**Notice:** Chairman Susan Chapman gave Notice to be put on record as follows: Given the fact that the current Letters of Credit relating to the High Winds Road Resubdivision are scheduled to expire on September 30, 2008 and no official bank notice has been received renewing the letters of credit it is the intention of the Chairman to place on the Agenda of the next regularly scheduled Planning Commission meeting or if necessary at a Special Meeting, to be noticed in accordance with the requirements of the Connecticut General Statutes, the status of the High Winds Road Resubdivision bonded improvements. At that time a discussion will occur to decide if and when it will be

necessary to authorize the First Selectman to draw on the respective letters of credit in amounts necessary to cover the completion of all bonded improvements that relate to the Planning Commission approval.

### **NEW BUSINESS**

#### **Lot Line Revision, Hugh Burrell, Trustee 8 and 10 Sylvan Road,:**

Peter Young representing Mr. Burrell approached the Commission and explained their plans to revise the lot line in order to give the buyer increased Lake Frontage. Prior to the revision Parcel 2A was 3.116 acres and after the revision it will be 3.573 acres and Parcel 2 will be 22.346 acres. The Inland/Wetlands Commission has already approved this. Greg Porpora made a motion to approve the Lot Line Revision as outlined, 2<sup>nd</sup> by Mike Daood vote 5-0.

#### **Lot Line Revision, Spencer Myles, 1 Bogus Hill Road,**

Spencer Myles approached the Commission and explained his plans to reduce 5 nonconforming lots to 2 (two) conforming lots. The lots are in the R-44 Zoning District and one acre is required. After the lot line revision Parcel A will be 1.0102 acres and Parcel B will be 1.4064 acres. Mike Daood made a motion to approve the lot line revision as drawn 2<sup>nd</sup> by Roger Wise, vote 5-0.

#### **Adjourn**

Mike Daood made a motion to adjourn at 10:00pm, 2<sup>nd</sup> by Greg Porpora vote 5-0.