

The Shelton Planning & Zoning Commission held a Regular Meeting on July 12, 2005 at 7:00 P.M. in the Shelton City Hall, Room 303, 54 Hill Street, Shelton, CT.

Members present: Chairman Alan Cribbins
Comm. Patrick Lapera
Comm. Jason Perillo
(sitting in for Comm. Papale)
Comm. Anthony Pogoda
Comm. Karen Tomko-McGovern
(sitting in for Comm. Sylvester)

Staff present: Anthony Panico, Planning Consultant
Richard Schultz, Planning Administrator
Thomas Dingle, Zoning Enforcement Officer
Diana Barry, Clerk

Members absent: Comm. Daniel Oraziatti
Comm. William Papale
Comm. Leon Sylvester

Tapes (2) and correspondence on file in the City/Town Clerk's Office and the Planning and Zoning Office. Attachments are not available on the Website.

PUBLIC PORTION

Chairman Cribbins asked if there was anyone in the audience who wished to address the Commission on any item that is not on the agenda. Hearing no response, he asked for a motion to close the Public Portion.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to close the Public Portion.

OLD BUSINESS

APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE (SEE ATTACHED LIST)

Tom Dingle reported that are standard items numbers 1-17. There is only one new home and staff recommends approval. You are sure that 80 Geissler Drive is an LLC, questioned Chairman Cribbins? Yes, answered Tom Dingle.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to approve Applications for Certificate Zoning Compliance, Standards numbers 1-17.

SEPARATES:

5326, ELRAC, INC. D/B/A/ ENTERPRISE RENT-A-CAR, 514 BRIDGEPORT AVENUE, SIGN

Richard Schultz stated that item one is for another version that the applicant will address to the Commission. Item two is for the Certificate of the non-conformity. Enterprise is in the building that was recently raised and they have an attachment that goes along with that this evening.

Attorney Julie Kohler, from Cohen & Wolf, representing Enterprise Rent-a-Car, addressed the Commission. Also present with me tonight is John Petrie, Operations Manager of Enterprise Rent-A-Car. We are here this evening on these applications to actually clarify what the signage is actually like and what Enterprise is proposing.

As you may know Enterprise has been at this location since 1996. About a year ago in June Enterprise shifted over to another location on the track of land so that the property could be re-developed and put into the PDD Zone designation that was awarded to Crown Point. In that time, Enterprise was in a temporary facility with a temporary sign and they never left the site. At this point Enterprise is in its final location, at the back of the property, in the little strip of development. Now they need to get the sign in place, stated Attorney Julie Kohler.

I believe that at one point this Commission had considered a sign and there might have been some confusion in communication on what this would look like and be like. The Enterprise sign that is being proposed is a 12-foot by 3 inch long by 2 by 6 inch wide sign. It will have the E logo and Enterprise will be channeled letters mounted on an aluminum backboard. No box sign involved. The letters are all channeled raised and the sign is about 8 inches deep with letters about 5 inches.

The 1-800 Enterprise logo has been on the site for the last year, stated Attorney Julia Kohler. It is not new to the site, the only thing that is new to the site is the permanent replacement sign being proposed. The sign is a channel sign with the Enterprise logo that is actually smaller than the original. The replacement sign is smaller than the original and the interim sign. This is to the back of the property and won't be seen from Bridgeport Avenue. It is an attractive design.

The first application before you is for the approval of the sign as such. I understand that there were some questions that I want to clarify about the sign and what the Commission can approve with regard to the PDD District. The PDD District has no specific signage requirements. It simply says signage to be as approved, stated Attorney Julie Kohler.

If there are no specific sign requirements you then default to your existing requirements in the rest of the town or you need to create the specific requirements for the PDD Zone. It is well established in case law that you can't impose certain conditions on an applicant that he was not aware of. So in terms of the PDD District, I think in terms of the first application that this is an attractive sign and I think it meets with all of the concerns that were discussed.

Did you say that the sign was non-internally illuminated, questioned Chairman Cribbins? The channel letters are illuminated, answered Attorney Julie Kohler.

John Petrie, Operations Manager, Enterprise Rent-A-Car, addressed the Commission. The logo and the letters are illuminated and the backboard is not illuminated. That is consistent with all the wall signs, stated Richard Schultz. I did drive out there today and that is consistent with the rest of the signs that are there, stated Attorney Julie Kohler.

The concern that the Commission has is that we are trying to get people, most of our signs we like to have the address or the location, but we consider things that could be safety hazards especially on a busy street like Bridgeport Avenue. We don't like menu signs that people have to stop and read and we don't like phone numbers and all that stuff stated Chairman Cribbins. We try to, in our interpretation of the PDD rules, here is what we think. We try to get consistency in the color scheme with regard to the application. In this case we didn't think the removal of the phone number because it is way in back and you probably can't see it from the road anyway, is a big deal.

Anthony Panico stated that the Commission tries to distinguish between identification and advertising. Where you get into trouble with this is you say o.k. it has been there but now the pizza restaurant wants a number for people who want to call in to take out pizza, then Starbucks and it just keeps going. So what we try to say is let's limit it to the identification of the place of business, stated Chairman Cribbins.

I can understand that because I am from Milford where that big Showcase sign is and as you much as you don't want to you have to look at the sign, stated Attorney Julie Kohler. It is in the back of the property there is no way that you are going to see the sign from the front of the property. The second thing is that by adding a telephone number creates the issue that someone is going to do that then I remind the Commission that you have the ability to limit it then, she added. The Commission doesn't have the ability to regulate content, she added.

That is right and we have learned and we are going to put that back on the owner, he is going to have to approve the sign before you come here, stated Anthony Panico. He will tell you what he wants on it and what he doesn't want on it because he is not subject to that, he added.

I can tell you that the content of the sign was approved in the lease, stated Attorney Julie Kohler. They are not putting fax numbers, etc. but in terms of this application, the 1-800 number has been on the site for a year now, she added. The 1-800 number has been on the interim sign and there hasn't been any issue with it. The owner approved the sign and content of the sign. The only thing you can regulate is height and location, content is not one of them. We respectfully request that you approve this sign and we think that we have addressed the concerns from last time with regard to the box sign.

Attorney Dominick Thomas, Cohen & Thomas, representing Crown Point Associates, addressed the Commission. Enterprise is not on the same site it was on before. There are 4 properties which all have separate addresses and separate entities. The lease provides that they have content law. They have the ability to have their typical sign. Corporate name, phone number and logo subject, all leases do say, subject to the approval of the Shelton Planning & Zoning Commission. Size wise there are no specifications but they are subject to, we made it very clear orally, that there would be no box signs. There are no box signs and that they have to have architectural similar to the rest of the signs. I understand that they have made some changes to accommodate those issues.

There is an issue that they raised tonight, that is the size issue. You approved a building in your detailed development plan that has an 18 inch fascia, stated Attorney Dominick Thomas. It is a 24 foot fascia, there is no room for the sign, stated the owner of the property. She is proposing a 2 foot 6 inch sign and you would be cutting into the crown molding. No one is going to cut into the crown molding, stated Attorney Thomas. I won't allow it, stated the owner. It is 30 inches that is what she is proposing, added the owner.

This is mounted on the sidewall of the building, stated Anthony Panico. This is on the front wall, stated Attorney Thomas. It has to fit in the fascia, he added.

There are 5 conversations all going on at the same time.

I am sure we didn't approve a box bigger than what appears on the plans, stated Anthony Panico. I don't think the trim on the building should be compromised for the sake of having a larger sign, he added. They have no authority stated Comm. Lopera.

I think this is an issue with the owner, stated Attorney Kohler. If you look at the pictures those signs are larger. These signs are larger, she added.

Those are all 18 inches. We approved them and we gave you blueprints for them. There is not a sign out there that is 30 inches. I don't have a 30 inch fascia, stated the owner.

I think we go with what the plans call for, stated Comm. Pogoda. Plans call for a sign panel within that fascia area, that is it, stated Anthony Panico. Our lease doesn't limit the content, there were no measurements, the lease is with the existing tenant was that on the property already and we said 3 Enterprise signs, stated Attorney Thomas.

Attorney Kohler states that we have been working with the Mr. Botti and Mr. Thomas for the past 6 weeks and we are not going to cut into the façade. If there is an issue with regard to size we will work this out with Mr. Botti, she added. This could have been brought up before.

It was brought up 6 months ago, they were in front of this Commission they submitted the plans to them, you were brought in at a later date, we had meetings with Enterprise. I paid them to have a sign brought up with the way the company did that, stated James Botti. That is not the way our company wanted, those drawings are not what our company wanted stated John Petrie. I don't have a problem with the way your company drew it but it has to shrink down, stated James Botti.

Our position is very simple, no box sign, content is o.k. with our lease, signs have to fit on the fascia, stated Attorney Thomas.

Many conversations all at the same time (inaudible).

I have an issue with the 800 number, stated Comm. Pogoda. This is what was approved, initially. That is what we approved, they were aware of it, he added.

The PDD regulations put the content of the sign under the auspices of this Commission, consistently we have not allowed phone numbers on signs, stated Comm. Perillo.

I have had this conversation with Attorney Welch and I believe he has advised Mr. Schultz that you can't regulate content of signs, stated Attorney Kohler. The Statues don't allow that. They allow you to regulate height and (inaudible).

The Commission has been informed on that on a regular basis, stated Richard Schultz. There heart is into maintaining the elimination of phone numbers, stated Richard Schultz. That is there call though, he added.

I understand that but I am trying to say legally that (inaudible), stated Attorney Kohler. First challenge on the number, stated Richard Schultz.

We need to take an action to change some of our PDD regulations talking specifically about content of signs, stated Chairman Cribbins. You have to put some language in requiring the applicant to clean up the sign provisions and deal with standards subject to the owner's approval so that the owners are held accountable not the tenant, stated Anthony Panico.

What are you allowed to regulate, questioned Comm. Lopera? Size and location stated Anthony Panico. So what is the size we approved, questioned Comm. Lopera? They are looking for 30 inches stated Anthony Panico. We can make it 24 inches, stated Comm. Lopera. Whatever the landlord says he needs, stated Comm. Pogoda. Within the dimension of the fascia, stated Anthony Panico. 5 conversation here, stated Chairman Cribbins.

The owner is telling the Commission that all the others are 18 inches, stated Richard Schultz. All signs there are 18 inches, rather it is UPS or Enterprise or anyone else, their logo was allowed to go 24, stated James Botti. If you have a whole sign there will be no way to secure it. The rest of the signs are 18, questioned Comm. Pogoda. Make sure the sign doesn't exceed the height of the exposed fascia, stated Anthony Panico.

Personally I don't have a problem with the phone number because it is way in the back, stated Chairman Cribbins. I do stated Comm. Pogoda. It is parallel to Bridgeport Avenue, stated Anthony Panico. I don't have a problem with the phone number, stated Comm. Tomko-McGovern. This is what we approved, stated Comm. Pogoda. I think that we are learning everyday, stated Anthony Pogoda. We will tighten up on the regulations, stated Chairman Cribbins. We are amending our regulations as we speak, we will put a standard in there, stated Richard Schultz.

We need to distinguish between advertising signs and identification signs. We permit identification signs not advertising signs, stated Anthony Panico. That is advertising, he added. We need to strengthen that, stated Chairman Cribbins. I need a motion, he added.

I will make a motion for a consistent sign of 18 inches with a 24 inch logo, stated Comm. Lopera. If I am told I can't regulate content I will have to go with size of the sign. Only illuminated channel letters are consistent with what is there. Not an illuminated sign just the channel letters, he added.

Chairman Cribbins stated I have a motion and a second from Comm. Tomko-McGovern. Is there any further discussion?

On a motion made by Patrick Lapera seconded by Karen Tomko-McGovern it was voted (3 to 2) to approve Separate # 5326 .

5318 ELRAC, INC., D/B/A/ ENTERPRISE RENT-A-CAR, 514 BRIDGEPORT AVENUE, SIGN

Richard Schultz stated that we need to withdraw 5318.

On a motion made by Patrick Lapera seconded by Anthony Pogoda it was unanimously voted to withdraw Separate # 5318.

5244 STEVE KIMAN, 4 OAK VALLEY ROAD, HOME OFFICE

On a motion made by Patrick Lapera seconded by Jason Perillo it was voted to table Separate # 5244. Comm. Tomko-McGovern excused herself and didn't vote on the Separate.

5404 SHANNON ACKLEY, 47 TUXEDO AVE., HOME OFFICE

Tom Dingle reported that this is Shannon's Solutions. This is a decorating service. She goes out to people's house. No deliveries or visitors on site. She has a tax number. Part-time employment.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to approve Separate # 5404.

5418 VALLEY DIGITAL, 42 ROSEDALE CIRCLE, HOME OFFICE

Tom Dingle reported that this is a video services – computer only. Employees himself. This is outside consulting work.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 5418.

5417 LATEX INTERNATIONAL, LLC, 12 COMMERCE DRIVE, BUSINESS

Tom Dingle stated this is the second location at 12 Commerce Drive. Waiver of the site plan. This is for occupancy of (partial occupancy) of the Baldwin Building right at the corner, stated Richard Schultz. This will entail no manufacturing just the processing. The mattresses will still be manufactured on River Road and brought up to this site for distribution. ¾ of the building will be occupied, he added.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to approve Separate # 5417, which includes the waiver of the site plan.

5282 FRED MONAHAN, 83 SAW MILL CITY ROAD, DET. STRUCTURE/SIGN

Tom Dingle stated that this is a 5 acre parcel identified as a farm, status with the Assessor's Office. We have gone through Valley Health and Wetlands for approval of the greenhouses and a shed. This is just down from fieldstone very close the Kneans Brook Reservoir. It is a rear lot of 5.1 acres.

Just to remind the Commission, the new regulations identify a farm as more than 5 acres. This used to be an agricultural piece of property they abandoned. The new owners are bringing it back. It won't be livestock it will be horticulture, stated Richard Schultz.

The only issue of concern was the offsite signs, stated Tom Dingle. They have a tendency to push them into the rights of way, stated Richard Schultz. I have been to the site with John Cook, on site parking is sufficient. This is an interior lot, he added.

They will sell to the general public, questioned Anthony Panico? Yes, stated Richard Schultz. Have they been talked too about the signs, questioned Comm. Pogoda? They are already there, stated Comm. Perillo, Tom Dingle and Richard Schultz. You know our local farmers advertise, stated Richard Schultz. The applicant has worked for Hudak farm and he has been asked to take his products off the Hudak Farm. We have to ask Mr. Hudak to renege on allowing the signs on his property, stated Tom Dingle. Unless an application on the sign comes in, he added.

We were criticized on the regulations for the sign. Some residents felt they were excessive. This is a site where the 5 acres will work, stated Richard Schultz.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to approve Separate # 5282 to sell farm products. No sign is including in the application.

5397 VINTIMALLA JEWELERS, 488 HOWE AVENUE, BUSINESS/SIGN

Tom Dingle reported that this is downtown next to Lauretti's Rest. The old occupant was New England Concrete. Square footage is 280. It is a small store, stated Tom Dingle.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 5397 with conditions in regard to the sign.

5353 CONTI ASSOCIATES, 415 HOWE AVENUE, SIGN

Tom Dingle reported that this is a sign advertising self-storage. 20 feet by 6 feet. There is something there now, stated Tom Dingle. I think we need them to try again, it doesn't look good.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to table Separate # 5353.

5426 SCHUYLER WELLS, 2 HORSESTABLE LANE, ACCESSORY STRUCTURE

Tom Dingle reported that this was a farmhouse with a subdivision of two new houses. The applicant is asking to keep the old house there, it is approximately 1,126 square feet.

It is a corner lot on Far Mill Street and Horsetable Circle, stated Richard Schultz. This property was involved in a free split. The original application was to construct a house and raise the old house, which was a modest size house. They are now asking the Commission to keep the old house to convert it into an accessory structure/pool house, he added. There were pictures being passed around.

Normally we would have taken a bond to ensure that the house would have been removed, stated Tom Dingle. The applicant asked us to allow him to use the house throughout the winter for meetings, for blueprints and work area, he added.

What is the use going to be now, questioned Comm. Lapera? Accessory structure for a play area for the children, there is an open room, and they are building a pool and this will be the cabana stated Richard Schultz. They have already filled out an application, the owners are here, stated the applicant from the audience.

The field card says 1026 feet, stated Tom Dingle. This is the old house that was suppose to come down, if they wanted to keep it they should have attached the new house to it, he added. Right, stated Comm. Pogoda, that is the way it was brought in to be raised.

I came back in here in February and meet with one of the Zoning Officials. We had demolished a two-car garage, the house was built in 1940, and I came in back in February. They said they didn't have a problem with it as long as I got rid of the kitchen. It is one big room downstairs with a bathroom, stated the applicant.

Did you approve this Tom, questioned Comm. Pogoda?

There is storage upstairs, continued the applicant? When was the addition put on, questioned Tom Dingle? In the 70's answered the applicant. It has a full basement with a belco door, stated Tom Dingle. Who approved it, what zoning official, questioned Comm. Pogoda? I went to the Assessor's and then I came up to talk with Pat Tisi. We then meet with the Sullivan's who are the homeowners. He said he didn't have a problem with it as long as I removed the kitchen, stated the applicant. I have already paid to have it sided and the roof put on, he added. It is an interior lot that you don't see from the road. It is not an interior lot, stated Tom Dingle. The siding wasn't on when I saw it, he added. It has been sided for 5 months, stated the applicant.

There are many conversations all going on at one time.

Can I ask what an accessory structure is, stated Comm. Lapera? Typically what we look out for in these accessory structures, we have had problems in some neighborhoods, where the put a little barn up store construction vehicles and abuse those privileges. It doesn't look like they will store construction vehicles in there, stated Chairman Cribbins. As long as you make it deed restricted and that it is not for human habitation. All they want this for is the kids, stated the applicant.

That is the second issue we have, so people don't put up things like this, stated Chairman Cribbins, they put in a kitchen, then they bring in a renter. This doesn't look like that. It meets setback requirements. I don't have a problem with it, he added. Those are my thoughts.

I have a map showing where the pool is going to go, stated the applicant. The pool is going where we pulled the demolition permit. It is on 1.6 acres, he added.

Anthony Panico stated you have to perceive as though the applicant came in on a clean site for 1000 square foot building to look like this. If it is consistent.

If someone was proposing that on Maltby it wouldn't work stated Comm. Perillo.

How many rooms are here, asked Comm. Lapera? We took the front door out, stated the applicant. There is one room here, stated the applicant. Tom Welch is my attorney on this and he said we could put a deed restriction on this. I have sided it and I have a roof on that, he added.

You have a building permit for all of that, questioned Tom Dingle. So the application that went over to the building official said the house was going to be demolished. The zoning compliance form that we approved for you said that was going to be demolished. So when you came to us that is what the application said, he added.

I am telling you when I came back in February, stated the applicant. Where is the application you should have given us in February, questioned Tom Dingle? I was unaware of this, stated the applicant. You don't have to be so hard on me, he added. I feel we are being duped, stated Tom Dingle. You aren't getting duped, I do everything by the book Tom, you know that, stated the applicant.

Let the Commission handle it, Tom, stated Chairman Cribbins. What do you have against me Tom, questioned the applicant? Nothing, stated Tom Dingle. Excuse me, it is in the hands of the Commission, stated Chairman Cribbins. Size is not an issue, I don't want to set a precedence for size, but on a large lot I don't have a problem with it as long as the uses are clear that it is not for someone to live in, stated Comm. Lapera. A pool house, you build a pool, you build a pool house, if the kids want to use it as a playroom and the uses are clear, I don't have a problem with it, he added.

Chairman Cribbins stated put a deed restriction that there won't be a business run out of there. With those restrictions you are o.k. with that, stated Comm. Lapera. Contact Tom Welch so that this won't be used as a business, added Chairman Cribbins, and no habitation.

I will make that motion stated Comm. Lapera. I will second that, stated Comm. Tomko-McGovern. Comm. Perillo stated that I would like to add if the intent, if this was the original intent all along, then that would be in extremely poor form. I think people need to know that. That needs to put on the record that actions like that are unacceptable. I don't have a problem with this, I think it is nice and it is a big improvement but people need to know very clearly that this is not a game. If that was your original intent to do something other than what you state that is a problem. I think we need to make that clear to people, he added. If you are going to change your mind you need to come in and give us a chance, stated Comm. Lapera. I concur with Jason, stated Comm. Pogoda. I do too stated Comm. Tomko-McGovern. I am not sure of the discussion with the other zoning officers, stated Chairman Cribbins. I don't know what the discussion was and I am looking at what is here now, he added.

End of Side 1A of 2A, Tape 1 of 2 at 7:45 P.M.

On a motion made by Patrick Lapera seconded by Jason Perillo it was voted (4 to 1) to approve Separate # 5426.

APPLICATION # 05-16, DOMINICK THOMAS ON BEHALF OF GREG SAVIGNANO FOR SUBDIVISION APPROVAL (3 LOTS: SAVIGNANO SUBDIVISION), WALL STREET (MAP 117B, LOTS 21, 22, AND 23) R-4 DISTRICT – DISCUSSION AND ACTION

Richard Schultz read from his report. The applicant is requesting approval on a 20,893 square feet or .48 acres. The lots will be served by water and this is located in a R-4 district. It is off Oak Avenue running off Wall Street. This is the North side of the ravine. It is moderate to very steep slopes. The WPCA approved sewers for the lots. The applicant has received variances. There are no wetlands issues and it is not located in a water shed or flood hazard area. There is a sediment erosion control plan and a site plan that shows the 3 units. There is a 22-foot (at the north end) retaining wall. Wall Street has partial sidewalks in front of some homes.

The Commission needs to find that all three lots are suitable for construction pursuant to Section 4.2 and 4.3 of our subdivision regulations. 4.2 is character of land and 4.3 are building lots.

We are requiring the applicant to install sidewalks along the entire frontage of the property pursuant to Section 4.14 of the subdivision regulations. This is in a downtown area where there are sidewalks, Oak Avenue has them, partially Wall Street and all of Union Street has them. The applicant is required to construct a retaining wall with a decorative side facing Wall Street.

Richard Schultz then continued by reading the City Engineer's report. The letter states there are extremely steep slopes that range 80 to 100% or 1 to 1. In order to develop these proposed lots, the applicant is proposing to construct a retaining wall of 290 feet. The height between Lots 1, 2, 3, range from 22 feet to 16 feet to 14 feet respectively. The corner of the house on Lot 3 only being 10 feet from the wall, stated the Engineer's letter.

The City Engineer has reviewed these plans with the Building Official in regard to the construction of the home, which will be supported by the retaining wall, and 22 feet of fill. We are both of the opinion that this proposal is unsatisfactory and that site plan approval would not be granted by either of our offices, stated the City Engineer's letter.

What that means Commissioners is that this Commission has the right to approve this subdivision, however, the City Engineer will not sign off and if the Commission signs off, you can do that, the map will be recorded but the permit starts with the Engineering Dept. with regard to the driveway and house numbering, etc. He is saying he will not sign off.

The City Engineer's letter continues to be read by Richard Schultz and states that this application should be rejected under Section 4.2 character of land due to the following steep slopes, typography, potential safety and general welfare for the future inhabitants of the subdivision. A failed retaining wall results in a failed structure. Lastly this land doesn't meet the definition of lot area as defined in Section 5.25 of the Zoning Regulations.

Based on the City Engineer's report motion to deny stated Comm. Perillo. I will second that stated Comm. Pogoda. Can we address some issues that are in there, asked Attorney Thomas? Certainly, answered Chairman Cribbins.

Attorney Thomas, representing the applicant, addressed the Commission. So that you understand this property is currently a dumping ground. People dump bicycles and they throw trash down there. The applicant came in with a proposal for a very attractive 5 unit multi-family apartment complex on this site. That would have been a very nice proposal for this neighborhood but the neighbors fought it.

We went back to ZBA twice with the neighbors finally agreeing that the best thing for their neighborhood because they don't like the dumping ground, the issue was the 3 single family homes instead of 4. The final proposal then was the 3 single family homes, stated Attorney Thomas.

The Engineer's report is out of school. You can approve this subject to the permitting process and we will deal with it from an engineering prospective. Our Engineer is here. Retaining walls twice this height have been built, approved and lasted. The Engineers statement that this will fail is absurd. The fact that an Engineering wall would have to be constructed based on a supervised Engineer plan that could require Geo Tech studies and everything like that. There have been preliminary studies done showing that a wall with the appropriate types of design can be built here, the decorative, the pre-cast material, and built in there with a fence along the top for safety issues.

Fred D'Amico, Engineer for the project, addressed the Commission. I do agree with Bob Kulacz in one thing that the approval should be subject to the wall being designed by a Professional Engineer. Not even me, a structural Engineer who basically designs walls of that height like on Bridgeport Avenue. There are brand new hotels that have 30-40 high walls, they look beautiful and they have not collapsed after 5-6 years. They were designed correctly. I am sure that a 30-40 foot wall designed properly proves that a 22-foot high wall is not a problem, stated Fred D'Amico. I do agree that it does have to be designed by a Structural Engineer and the approval should be subject to that, it has to be a requirement so that when they go to get a building permit this has to be done prior to getting a building permit. Basically there is no problem with the design and you would have to make that a specific requirement for the project, he added.

I think it is a little erroneous when you mention the wall by the hotel. The hotel is not 10 feet away and it is not going to fall down if the wall collapses. If anything happens to that wall these houses are gone, stated Comm. Pogoda. So it is a bit different then the wall at the hotel compared to the wall over here when you have a house 10 feet away from the wall if it ever went down. All I am doing is showing the difference in that, he added.

The difference is the footings in that, stated Fred D'Amico. The base of that proposed dwelling is 106 so the footings should be built on virgin ground so even if you are filling for the wall the footings for the buildings will be down to virgin ground so if the wall collapses it won't effect the building, he added. That fact shows the Engineer's opinion is inappropriate because he doesn't realize that this is going into virgin ground, stated Attorney Thomas. That would be a requirement from the Building Dept, also stated Fred D'Amico. You can't build on fill, stated Anthony Panico.

Here's the issue that I am struggling with, stated Chairman Cribbins, we have this application before us, there is a drawing that says this is what we are going to do and we have a very strong memo from the City Engineer advising us not to do this. Not to approve this. So I guess, I also have a motion and a second on the table to deny this. We have to act on this. What I suggest is that we take an action. Once you deal with the City Engineer providing him with enough information to give us a favorable report, it is the technical arm, he is where we get our advise from rather or not it is a sound safe decision, and we can only rely on his judgment, stated Chairman Cribbins.

Anthony Panico asked the engineer would you explore the possibility of a step wall so that you don't have these 2 feet high wall? We could have the step wall on the largest lot but there is no room to make a step wall on the 14 foot away area, stated Fred D'Amico. The walls would have to be a minimum of 14 feet high, he added. We need to improve the design of the wall before your approval but the more appropriate way is make this subject to his (the City Engineer's) final approval. He hasn't done it, he hasn't given his final approval, all you are saying is that it is subject to it, stated Attorney Thomas. That these lots fit certain, we got variances, we have to have an appropriately designed retaining wall to meet his approval, he added. It has to be an engineering wall.

Can you do that within the 90 days that you have to record the subdivision map, asked Anthony Panico? Yes, that can be done, stated Fred D'Amico. One of the problems is that the applicant is reluctant to spend, it is at least \$10,000.00, to design the wall. He doesn't want to design the wall and have it be denied at your level, he added. We have to go get approval from the Engineer, basically we are not approved because we have to go back to Bob Kulacz anyway. We don't have a choice. We have to get the wall designed.

I will amend my motion to deny without prejudice and I urge the applicant to go back to the Engineer and present a more favorable opinion from the Engineer. I have a real hard time approving this with such a strongly worded letter from the one guy in this town who is our technical advisor on matters of this sort, stated Comm. Perillo.

The walls are so high because the ground is so high, they are talking about fill, questioned Comm. Lopera? Pat there is a 60 foot drop, stated Richard Schultz. This goes down right from the shelf of the street, stated Anthony Panico. They will construct starting on the existing ground but to build them up high enough to build a road they have to fill them in-between stated Anthony Panico. Richard Schultz stated it is a ravine. The road is here and ground comes down, he will come out here fill it in for a useable lot. This wall will be on this corner 22 feet, stated Comm. Lopera. If it goes like this make this lower, questioned Comm. Lopera? The driveway goes down and you are dropping another to lose grade, stated Anthony Panico. You put a lip at the street so the water doesn't go down the driveway stated Fred D'Amico. Where the 22 foot wall is there is more land behind so that if the wall collapses it won't fall on a neighbor it will fall on this land, stated Anthony Panico. This is the lot line but here it would come over, stated Comm. Lopera.

Why was the wall not placed closer to the property line, asked Anthony Panico? This one could have been if Bob wanted it changed we could have made that a step wall, stated Fred D'Amico. What about here, why not put the wall here, asked Anthony Panico? We went right from the corner there, answered Fred D'Amico. We are off the corner and went on the angle. It is an expensive wall, yes.

There is a motion on the table, stated Chairman Cribbins. I will amend my motion to deny without prejudice urging the applicant to work with the City Engineer such that we could be presented with a more favorable letter from him, stated Comm. Perillo. Is that the only issue that the Commission sees, asked Anthony Panico? I think it is better than a dumping ground and if the neighborhood is o.k. with it, then so be it, stated Comm. Perillo. Three houses is the use, stated Anthony Panico. The Engineer all but told us that the houses are going to fall down, stated Comm. Perillo. They won't fall down, stated Attorney Thomas. What I would suggest that if that is the only issue the Commission why don't you state it in your motion to recognize the fact that it is in other wise an acceptable plan if you could get the wall worked out, stated Anthony Panico. I urged the applicant to work with the Engineer because that is my concern, stated Comm. Perillo.

How many houses can they put on this property as of right, questioned Comm. Pogoda? They got all there variances, stated Richard Schultz. It is over a year, he added. We went from 5 houses to 4 houses to 3 houses working with the neighbors, stated Attorney Thomas.

I need a second on Jason's motion then, stated Chairman Cribbins.

On a motion made by Jason Perillo seconded by Anthony Pogoda it was unanimously voted to deny Application # 05-16 without prejudice and refer the applicant back to the City Engineer.

Chairman Cribbins stated that in my 14-16 years here we have gone against a recommendation based on other information but this decision is a good one.

APPLICATION # 05-26, PETITION OF S & S SHELTON DEVELOPMENT, LLC FOR MODIFICATION OF PDD # 2 (BAKERY/CAFÉ AND BANK, OR RETAIL) 850 BRIDGEPORT AVENUE (MAP 18, LOT 230 (PUBLIC HEARING CLOSED ON 6/14/2005) – DISCUSSION AND POSSIBLE ACTION

Richard Schultz stated that the Commission directed Staff to write a favorable recommendation, you have a copy in front of you. (see attached resolution) He also has two letters of favorable recommendations, one from the City Engineer and one from the Fire Marshall.

Anthony Panico then read the attached resolution. You also directed Staff to point out the areas where this application differs from the previous application that was denied. You will see those references in this resolution, he stated.

The 146 parking sites were approved back when Staples was approved to go forward.

This is Bridgeport Avenue and where you go in for this will be on the left. There is an empty pad here, stated Anthony Panico.

Is this a separate building or attached asked Comm. Lopera? Attached answered Anthony Panico. You can see what is there. This is consistent and they will pick up the same material and roof, he added. There is a map on the table that references are being made too.

The applicant has initiated a process, the property line is back here and the applicant is proposing the City establish a unified property line and sell that sliver to the developer creating 6-8 spaces. They would get more convenience at the entryway, stated Anthony Panico.

Panera is half of this with the rest being the bakery.

At the present time there is one driveway and we are going to have them widen that.

One of the problems he has with the egress/access is if he does anything he will violate his lease with Staples so he doesn't want to do that, stated Anthony Panico. We will work with him to try to discourage the illegal turns. When this comes up for occupancy we will have another look at this.

There is a no left-turn sign, is there anything else we can put up there, questioned Comm. Lapera? I think what Staff needs to do is meet with their Engineer, one more time, and then they need to get involved to see what the State can do to improve signage to discourage the illegal turns, stated Anthony Panico.

Is there any landscaping plans for this, questioned Comm. Lapera? It is minimal but I wanted to have Rick and I sit with them to have them create some pockets and there might be an opportunity to do something on the side where there is now a sidewalk. There might be an opportunity to do some plantings in here, stated Anthony Panico. Nothing in the islands, questioned Comm. Lapera? It is already planted but I wanted to leave that option opened for Rick to go out there to see if there is anything supplemental that could be done, answered Anthony Panico.

There may not be many sediment and erosion control issues except for in the front where the driveway will be widened and in the back where the service area will be.

That contains all of the things that we asked you to put in there, stated Chairman Cribbins. It is well written, thank you very much for doing that, he added. This evening Comm. Tomko-McGovern will sit in for Comm. Sylvester and Comm. Perillo will sit in for Comm. Papale. They will sit in on this motion if I can have one, stated Chairman Cribbins. I will make that motion, stated Comm. Pogoda and I will second that stated Comm. Perillo. This will be a welcome and this was done nicely, stated Comm. Pogoda. That open space will be filled in and this is a good thing, he added.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Application # 05-26. A roll call vote followed with all Commissioners voting I to approve.

APPLICATION # 05-30, MUCCI CONSTRUCTION, LLC FOR 10-LOT PRD SUBDIVISION (TURKEY HILL ESTATES) BUDDINGTON ROAD (MAPS 39 AND 44, LOTS 51 AND 54) DISCUSSION AND ACTION

Richard Schultz stated that the Commission recently adopted the PRD overlay zone allowing for up to 10 lots and 4 acres of Open Space. He read from his report. All lots will be served by individual driveways except for Lots 4 & 5 that require the Commission's approval. The Commission determined that this qualified for a PRD. The WPCA approved municipal hook up for all the lots and an easement needs to be obtained from the Board of Aldermen. The property is not in a water shed or hazard area. The right of way on Buddington Road will be straightened out. There will 4.16 acres of Open Space. Open Space and Conservation recommend approval.

End of Side 1B of 2A, Tape 1 of 2 at 8:35 P.M.

They are working out the curb here, asked Comm. Pogoda? They are establishing a new street line, stated Anthony Panico. We are doing a lot of improvements on Buddington Road and the applicant has agreed to do some drainage improvements on Mill Street. The applicant will also help with blazing the trails. Richard Schultz then read a draft motion after which Chairman Cribbins asked for a motion.

On a motion made by Anthony Pogoda seconded by Karen Tomko-McGovern it was unanimously voted to approve Application # 05-30. A roll call vote followed with all Commissioners voting I to approve.

NEW BUSINESS:

APPLICATION # 05-37, LINDA REZNIK FOR SUBDIVISION APPROVAL (2-LOTS: REZNIK ESTATES) 13 BONA VISTA TERRACE (MAP 158, LOT 14) R-1 DISTRICT-ACCEPT FOR REVIEW

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to accept for review Application # 05-37.

APPLICATION # 05-38, HUNTINGTON WOOD, LLC FOR DETAILED DEVELOPMENT PLAN APPROVAL FOR PHASE II, THE CENTER AT SPLIT ROCK (REQUEST FOR WAIVER OF ARCHITECTURAL DRAWINGS) BRIDGEPORT AVENUE/OLD STRATFORD ROAD (MAP 29, LOT 24) ACCEPT FOR REVIEW

Anthony Panico asked if someone was here from their team? The whole team is here, answered Richard Schultz. They have gone well into the site with grading and there is a lot of material that they need to know what to do with. They haven't found out who they are designing the back piece for. They want a temporary exception to get the site ready in the back so that they can move some of the material back there, stated Anthony Panico.

How much lower will that be, asked Chairman Cribbins? About another 15-20 feet, stated Anthony Panico. We might not take the rock out, we might just try to level it off, stated James Swift.

Another option is to leave the rock so you won't see the grade. You won't see any cars from Bridgeport Avenue. The other reason to do the detailed development plans are if we are working on the other side of the knoll we want to put in the erosion control and drainage structures for control, stated James Swift.

Anthony Panico stated the engineering is basic and you have to grade it pretty much how Jim said. The grading in the front is done but the back should be done as part of the project. We are caught because they want to go back there but they have no building design yet. We want them to go in there to do some site preparation without figuring out building design, he added.

We have that corner landscaped, the pharmacy pad is done, we have steel and we can't finish that project until we get the back done. The pharmacy and restaurants leases will be signed soon, stated James Swift.

The road improvement on Old Stratford Road, when is that going to start, questioned Comm. Pogoda? There is some work starting on the guardrail and the rest can't be done until the light work gets done. That is up at the State right now, stated James Swift. You guys understand that all the buildings could be done but you can't occupy any of that until the road work is done, stated Anthony Panico.

Moving the wires is holding us up and there is no sense to pull the road up until we get the o.k. from the State, stated the applicant. Will you be able to give the Commission some sense as to how long it will take you once you get the green light to do that work, is it 30 days, 90 days, asked Anthony Panico? A couple of weeks, stated the applicant. We will work at night and push it through, he added.

I don't know how the Commission wants to process them getting in the back to start the grading and site preparation, stated Anthony Panico. Why don't we just give them permission to do site work on Phase 2, stated Comm. Pogoda. I don't want to waive the architectural, so why don't we give them permission to start site preparation.

Where I am coming from is that they have all that equipment there, why not get them going so that they can get the site stabilized, stated Chairman Cribbins. When the request was first made I drove by and all I saw was piles everywhere, stated Anthony Panico.

Richard Schultz stated it is important that the recording secretary understands the language- the Commission is accepting the detailed development plans for site preparation only and not accepting it as we have it identified in a line item. That is correct, stated Comm. Pogoda. Site preparation only. Anthony Panico stated that after receiving the detailed site engineering plans the Commission is authorizing the commencement of site preparation activities for Phase II.

On a motion made by Anthony Pogoda seconded by Patrick Lopera it was unanimously voted to accept for review and authorize commencement of site plan preparation on Phase II for Application # 05-38.

My question is what is the time line, asked Comm. Perillo? I don't think there is a magic time line, we are looking at the office market, stated James Swift. We advertised this as office condos and we are exploring that type of development. No one is knocking down our doors, he added. My concern is, what we experienced, early tonight, where the original intent of the application was different from the final picture, this is office condos and it was approved as such, stated Comm. Perillo. I hope that the applicant doesn't suddenly decide a restaurant would be better, he added. Do recall that the applicant at the hearing said he didn't know what he had to put there but he would put that there but he doesn't know about the market yet. If anything else goes back there then he has to come back to this Commission. There are a whole range of uses that are allowed in the underlying OPD district that still applies back there, stated Anthony Panico. The office condos is what this Commission expects to see back there, stated Comm. Lopera.

OTHER BUSINESS

ZONING ENFORCEMENT:

85 BEARDSLEY ROAD: INITIATE LEGAL ACTION

Richard Schultz a cease and desist order was issued by Zoning Enforcement Officer, Tom Dingle, they have failed to respond. There is a temporary structure without a permit, unregistered vehicles, a trucking business, and a storage yard, he added.

On a motion made by Patrick Lopera seconded by Anthony Pogoda it was unanimously voted to initiate legal action on 85 Beardsley Road.

PAYMENT OF BILLS

On a motion made by Patrick Lopera seconded by Jason Perillo it was unanimously voted to pay bills, if funds are available.

STAFF REPORT: (SEE ATTACHED)

Special meetings for July, one next Tuesday at the New Intermediate School and another scheduled for July 26 here in the auditorium.

P & Z COMM.

JULY 12, 2005

Here is the problem that we will have on next Tuesday. We have the interveners and they want enough time to give us a presentation. If you remember someone from the audience stood up to say hey I want an hour just for me, stated Chairman Cribbins. I am taking the public next Tuesday. So the public can give us their opinions on this thing.

You have received in your package a request from one of the interveners for a site walk with an agenda posted so that they can attend this with you, stated Richard Schultz. This is Avalon 1 on Armstrong Road.

The public will go first and we can limit this until 10:00 P.M. – 10:30 P.M. We still have the interveners that might require a meeting on the 21st, that Thursday, stated Chairman Cribbins. My concern is that you might have a request from the applicant so that he can review the City's traffic study, stated Anthony Panico.

We are on a time schedule so that we have to close the hearing by x amount of time, stated Chairman Cribbins. If we need more time we won't double them on July 26 it will go for August 9th, he added.

End of Daybreak Lane, 5:00 P.M., July 18th walk through on Avalon Bay 1 for Commission members, stated Chairman Cribbins.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to adjourn at 9:00 P.M.

Respectfully submitted by,

Diana Barry
Clerk