

SHELTON PLANNING & ZONING COMMISSION MARCH 10, 2009

The Shelton Planning and Zoning Commission held a regular meeting on March 10, 2009 at Shelton City Hall, Room 303, at 7:00 p.m., 54 Hill Street, Shelton, CT. The Chairman reserved the right to take items out of sequence.

The following members were present: Vice-Chairman Patrick Lapera
(acting for Chairman Anthony Pogoda)
Comm. Chris Jones (arrived 7:06 p.m.)
Comm. Thomas McGorty
(alternate for Comm. Virginia Harger)
Comm. Ruth Parkins
Comm. Leon Sylvester

Staff members present: Richard Schultz, Administrator
Karin Tuke, Recording Secretary

Tapes (1) and correspondence on file in the City/Town Clerk's Office and the Planning and Zoning Office. Attachments are not available on the website.

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Vice Chairman Patrick Lapera began the meeting at 7:00 p.m. with the Pledge of Allegiance. He indicated that he would be acting on behalf of Chairman Pogoda for this meeting. Commissioner McGorty would be alternate for Comm. Harger.

OLD BUSINESS

APPLICATIONS FOR CERTIFICATES OF ZONING COMPLIANCE

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to approve Applications for Certificate of Zoning Compliance, Standards 1 – 9.

SEPARATE #5044, LEO POISSON, 222 GARDENS AT SUMMERFIELD, HOME OFFICE

Mr. Schultz indicated that he received a letter of approval from the condominium association for this home office with the condo's own restrictions for commercial vehicles. The office occupies 50 square feet, one part time employee and one pick-up truck; this is for a snow plowing service business. Staff recommends approval with standard conditions.

On a motion made by Leon Sylvester seconded by Thomas McGorty, it was unanimously voted to approve Separate #5044.

SEPARATE #5072, VIRGINIA RE, 215 PROSPECT AVE, HOME OFFICE

Mr. Schultz indicated that this was for a home office for janitorial services, 50 square feet, one part-time evening employee. Staff recommends approval.

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to approve Separate #5072.

Comm. Jones arrives at 7:06 p.m.

SEPARATE #5064, NICK RICHITELLI, 224 SOUNDVIEW AVE, HOME OFFICE

Mr. Schultz indicated that was for a property maintenance services home office, 100 square feet, hours of operation 9 a.m. – 5 p.m. Staff recommends approval.

On a motion made by Leon Sylvester seconded by Ruth Parkins, it was unanimously voted to approve Separate #5064.

SEPARATE #5062, FRANCIS LOMBARD, JR. 10 PEACEFUL PLACE, HOME OFFICE

Mr. Schultz indicated that this was for a home office, 50 square feet, home improvement/general contractor, 1 employee, and standard conditions for no commercial vehicles or contractor storage.

On a motion made by Thomas McGorty seconded by Ruth Parkins, it was unanimously voted to approve Separate #5062.

SEPARATE #6724, R.D. SCINTO, INC., 40 WATERVIEW DRIVE, COMM. CONST.

Mr. Schultz indicated this was for the 3-story, 110 foot Hubbell Office Bldg at 40 Waterview Drive. This Commission approved the Site Plan.

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to approve Separate #6724. Comm. Sylvester abstained from voting.

SEPARATE #5986, KAREN FORIENZO, 55 BRIDGE ST., BUSINESS

Mr. Schultz indicated that this is for the deli/catering, Karen's Kitchen, which is moving again from Center Street to Bridge Street. Basically, everything is the same with the deli/catering business. Leased area is 860 square feet, hours of operation are M-F, 7 a.m. – 4 p.m. and as needed on weekends.

On a motion made by Leon Sylvester seconded by Chris Jones, it was unanimously voted to approve Separate #5986.

SEPARATE #5073, TNC PROPERTIES, 350 BPT AVE, SIGN

Mr. Schultz indicated that this was for the Draft House. He showed a rendering of what was added to the monument sign. He commented that the color is a little out of the ordinary. He asked the Applicant to make an application because the Commission gave approval for occupancy and wall signs. The Applicant is aware that the Commission may deny or table the application but he is asking the Commission to approve the existing sign he put up after the fact.

The Commissioners wanted to table this until they could go and take a look at the sign. Comm. Parkins commented that the Commission had discussed concerns about the parking issue there at previous meetings; they should monitor the parking because when she was there on a recent Saturday night, there were no parking spaces available – and that was on a night without the live music.

Comm. Sylvester commented that he had heard similar comments from other residents about it being crowded. However, in regard to the sign, he feels that the Applicant should have spoken to this Board before putting that sign up. He commented that he is usually pro-signs for businesses to generate business, but he thought that it was thoughtless.

On a motion made by Leon Sylvester seconded by Thomas McGorty, it was unanimously voted to table Separate #5073 until the 3/24/09 P&Z Meeting.

SEPARATE #5060, DANIEL TURRO, JR, 59-61 BPT AVE, SIGN

Mr. Schultz indicated that this was to remove to old ice cream shop sign and cover the porch area. He showed photos of the new canopy and sign.

On a motion made by Leon Sylvester seconded by Chris Jones, it was unanimously voted to approve Separate #5060.

SEPARATE #5075, LIQUID LUNCH, 6 RESEARCH DRIVE, SIGN

Mr. Schultz passed around a rendering of a site map of the new Scinto building and proposed monument sign for Liquid Lunch. He mentioned that this is a Planned Development District; all signs are subject to P&Z Commission review and approval. He added that Liquid Lunch is in there as a subordinate use. Restaurants are not permitted as a stand alone principle use. They are requesting more exposure; this is something that the Commission hasn't done in the past, but because it is a PDD, they can determine what they want to see on that particular corporate site.

Mr. Schultz indicated that he spoke to Mr. Scinto today and there are no monument signs there now and one of the larger tenants will be coming in to the Commission with requests for monument signs. There are two curb cuts and the Commission has allowed multiple monument signs when there is a lot of frontage.

Mr. Schultz indicated that he wanted to provide this background information for the Commission – how they are established, what the zone is, and the discretion that this Commission has. The Applicant is here tonight to answer any questions and state their case.

Comm. Jones asked if Il Polio had a monument sign out there.

Mr. Schultz responded yes, that is stand alone restaurant.

Michelle Bialek, co-owner of Liquid Lunch, 6 Research Drive, Shelton

addressed the Commission and provided a letter from Mr. Scinto's office approving the sign. She also wanted to add that this is now their Headquarters/Main Office. That may add to the fact it is part of the primary use of the building.

Vice-Chairman Lapera asked if she was renting an office space in the building in addition to the Liquid Lunch restaurant.

Ms. Bialek responded that she has an office in her restaurant which runs her whole operation – between the Milford and Shelton locations.

Vice-Chairman Lapera indicated that he wanted to open this up for discussion because, as Rick mentioned, the thing that needs to be considered is that this is an accessory use. They've never allowed signs for accessory uses. In looking at the building, he assumes that the major part of the trade will be in the tenants; it's in the corporate space just like all the other delis. He is concerned about letting a sign for one building in a corporate park where there are other delis; then they will have requests for signs from all the other delis. If it is an accessory use for the building tenants, it's not a stand alone restaurant. He understands that the major tenants want to be on the monument sign but he

thinks they need to be very careful about allowing accessory uses to have monument signs because they are going to be flooded because there are all kinds of accessory uses all over the corporate park – not just restaurants.

Vice-Chairman Lapera concluded that he thought they need to be very concerned about having a flood of people wanting monument signs.

Ms. Bialek added that they are also a tenant at the building; not a subcontractor of Mr. Scinto. She rents spaces there just like everybody else.

Vice Chairman Lapera responded that he understood her point, but it is only part of the restaurant; they didn't ask for monument sign for Liquid Lunch LLC.

Ms. Bialek added that her sign provider was supposed to be here this evening; he has a revised sign that says Liquid Lunch Headquarters.

Comm. Jones held up the photo of the revised Liquid Lunch Headquarters sign to show her that it was brought in.

Comm. Parkins commented that she thought it was a very nice sign and it's a great restaurant. However, she understands where Pat is coming from with setting a precedent – there's Enterprise Deli and others.

Comm. Jones asked who else had monument signs up there. The next building up would be BIC and they have a monument for their corporate headquarters; so if some huge company comes in and wants a monument sign showing their name, it would be allowed.

Comm. Parkins commented that there really is nothing up there like that except for Prudential which has a sign in front of Corporate 1.

Comm. Jones asked if Research or Enterprise had monument signs.

Mr. Schultz responded that on Enterprise Drive and Commerce there's a corner monument sign identifying the tenants. He recommended tabling it since the Chairman isn't here tonight, and the Commission probably wants to give this some thought. Staff will put together a comprehensive design and he'll ask Mr. Scinto to provide a more definitive plan for the other sign too to make sure it fits well. It's a deviation, so if it's allowed, it needs a lot of thought.

Comm. Parkins added that it sets a precedent – they can't say yes to just one and not any others.

Mr. Schultz commented that since this is a PDD, the Commission can determine that there are unique circumstances.

Comm. Jones indicated that he'd like to just drive around up there to check out the monument signs before making a decision.

Mr. Schultz added that at the end of the meeting he'll be passing out the latest revision of the amendments on the sign regulations which plays into this.

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to table Separate #5075 until the 3/24/09 P&Z Meeting.

SEPARATE #5076, DANIEL WELLS, 656 BPT AVENUE, SIGN

Mr. Schultz indicated that this was for the Wells Hollow Farm. He provided some background information about Wells Hollow Farm having had a permanent sign within the State right of way. It was on the cedar post. They took that down and made a larger temporary sign that they put on wheels and they wheel it in every night. Now they would like to make a permanent sign, but it has to be out of the right of way – it is really set back far – the state right of way is very wide there.

Mr. Schultz provided a drawing of the proposed sign. He explained that this is a situation replacing a non-conforming sign that was in a State right of way and putting it on private property. Also, what they'd like to do on the sign is have it say "Well's Hollow Established 1855" and show all the things they sell – Christmas trees, ice cream, etc. They would also like to graphically show vegetables or an ice cream cone or whatever they are selling that particular season because the sign is going to be perpendicular to Bridgeport Avenue

Mr. Schultz suggested they drive by it because it's easy to see – it's on wheels; but they are tired of doing that and; honestly Staff is trying to enforce the signs in the right of way.

Comm. Parkins asked which way the sign would face.

Mr. Schultz responded that it would be perpendicular to Bridgeport Avenue. It will still be obstructed because there are several trees. However, most people that go there know where it is.

Comm. Lopera asked about the street located there, Sawmill Road – he asked where it would be relative to that.

Mr. Schultz showed the location of Sawmill Road and location of their access driveway – the sign would be right in middle on the grass area. It is semi-obstructed because of the trees, because they don't want to cut down the trees.

Comm. Lopera asked if it was outside the right of way and if it conformed to the sign regs.

Mr. Schultz responded yes – it was outside the right of way and it conformed to sign regulations – for farm establishments.

Comm. Lopera asked what the colors would be, or if he had any objections about the sign.

Mr. Schultz responded that it would be a white background with multiple colors. They would like the applicant to work with Staff about not putting it in the right away because they are doing an enforcement. Staff will monitor it at the time he installs it.

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to approve Separate #5076.

APPLICATION #08-19, BROADBRIDGE HILL DEVELOPMENT, LLC FOR SITE PLAN APPROVAL (COMMERCIAL BUILDING), BRIDGEPORT AVENUE (Map 105, Lot 163), CB-2 DISTRICT – REQUEST TO WITHDRAW (APPLICANT INITIATED).

Mr. Schultz indicated that this was the commercial building proposed on Mike Petro's family's property. They went before ZBA and got a variance and this Commission challenged it. ZBA is now going to entertain a variance that they need for single story commercial building only from resident setback – the rear

of the property is in a residential zone. If they do that on the 17th, P&Z will be able to remove this appeal against the ZBA. The P&Z appeal was to stop the variance that allowed a mixed use of condos above the commercial building. It is trying to work itself out.

Mr. Schultz recalled that the Commission gave them a 2nd 65-day extension; they are out of time so they have to withdraw. It is on tonight's agenda again to restart the 65 day review period.

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to accept the Request for Withdrawal for Application #08-19.

APPLICATION 08-24, JOHN PAUL DEVELOPMENT, LLC FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #61 (STONEWALL/FENCE), COMMERCE DRIVE (MAP 39, LOTS 2, 3 AND 4) – REQUEST FOR WITHDRAWAL (APPLICANT INITIATED)

Mr. Schultz indicated that they have run out of time and they are before the BOA because they want to encroach their stonewall/fence for a sound barrier and for aesthetics into surplus city right of way. This has taken a lot longer because of what is involved. Once again, a motion is in order to accept the withdrawal and then later on under New Business, it is on the agenda to be reaccepted.

On a motion made by Thomas McGorty seconded by Chris Jones, it was unanimously voted to approve the Request for Withdrawal for Application #08-24.

APPLICANT #09-04, SHELTON TRUCK CENTER SALES AND REPAIR FOR SITE PLAN APPROVAL (ACCESSORY AUTOMOTIVE REPAIR LICENSE) (MAP 63, LOT 7), IA-3 DISTRICT – DISCUSS AND POSSIBLE ACTION.

Mr. Schultz indicated that this was Barry Mucci Construction Company located between Walmart and Viking Tool on Access Road which runs parallel with Bridgeport Avenue. He has a metal building there for a contractor storage yard and he's trying to diversify and seek a license for repair/selling of commercial vehicles. This is not for passenger vehicles. He is a commercial contractor and he wants to repair commercial trucks and also sell them.

Comm. Sylvester asked what he was selling in there right now.

Mr. Schultz responded that he sells mulch and his services. He read correspondence (2) from the Fire Marshal's Office regarding fire/safety compliance; Staff Report dated 3/10/09

***See attached letter addressed to Richard Schultz from James M. Tortora, Fire Marshal.**

***See attached P&Z Staff report dated March 10, 2009 including conditions and recommendations for approval.**

Mr. Schultz indicated that is an accessory use to the builders, contractors and storage yard. A principle use is not permitted in this zone; it is an industrial IA-3 zone. The Commission needs to feel compelled that this is an accessory subordinate use in order to make their determination. Additionally, the State of Connecticut has given the Planning & Zoning Commission sole discretion on motor vehicle licenses. It used to be ZBA and it went back and forth – recently, this Commission did it for Schuster's Garage. Conditions can be imposed such as the number of unregistered vehicles allowed, what is permitted outside the building, etc. Mr. Schultz added that the owner does not plan to do any towing; he's trying to diversify his business because of the economy; this site really

allows for this; there is plenty of parking; they have never received any complaints. IA-3 does allow this as an accessory use and the applicant is present to answer any questions.

Vice Chairman Lapera asked the other Commissioners if they had any strong feelings one way or the other as far this being an accessory use.

Comm. Sylvester responded that he's observed Barry's occupancy there for many years, and he keeps a good, well kept place. If he is going to do repairs, he would just ask Barry to ...

Comm. Sylvester indicated that they ran into this same situation on Center Street where they allowed Repairs and Sales. The promise was that the place would be impeccable and there would be no junks lying around and cars would be moved inside, etc. However, now if anyone has gone by, it is a mess. It flies in the face of everything that the Commission asked not to happen – it's now happened! It's due to lack of room, and lack of the interest from the owner to keep a nice place. But Mr. Mucci does just the opposite though. He has plenty of room up there and he keeps it up well; it's a fair accessory use.

Mr. Schultz responded that they've initiated Zoning Enforcement for Center Street, as Comm. Sylvester stated, they had to call the owner on the first day.

Comm. Sylvester commented that he recalls that they were very careful and Ruth spoke very clearly about the importance of having room in Downtown Shelton and to have the owner invested in upkeep.

Comm. Lapera responded that he agrees with the accessory use for this application and there is plenty of space, and he's only asked for 5 vehicles for sale.

Comm. Sylvester would only make one stipulation – that there not be any crashed demolished vehicles sitting out in the front.

Comm. Parkins added that he won't have any towing so he probably wouldn't have that.

Barry Mucci, owner of Barry Mucci Construction Company, addressed the Commission. He indicated that there won't be any mess. He'll try to keep everything as clean as he can at all times – it is construction equipment so he has to keep it separate and away from everybody.

Comm. Lapera asked if he had an objection to any additional screening.

Mr. Mucci responded that he did not.

Comm. Parkins asked what the area was currently being used for.

Mr. Mucci responded that it was a contractor's storage and business yard.

Comm. Lapera commented that it is set far back too. Comm. Parkins asked if they would be able to contain any oil leaks that might occur from these trucks.

Mr. Mucci responded that he has equipment there now and he would watch that.

Mr. Schultz read the a draft motion with conditions for approval of the site plan with the noted additions.

On a motion made by Leon Sylvester seconded by Thomas McGorty, it was unanimously voted to approve Application #09-04. Comm. Jones abstained from voting.

APPLICATION #09-06, MARK AND SOPHIA BELADE FOR SUBDIVISION APPROVAL (3 LOTS: POLE BROOK ESTATES), 353-357 SHELTON AVENUE (MAPS 102, LOTS 54, 55, AND 56), R-1 DISTRICT – DISCUSSION AND POSSIBLE ACTION.

Atty. Steven Bellis, representing the Applicants, Mark and Sophia Belade, addressed the Commission. He indicated that their engineer is Alan Shepard. Atty. Bellis provided the site plan for the Commission to review and showed the location of the property.

He indicated that he has discussed this with Rick, and they are calling this a 3-lot subdivision, but it is probably closer to a 2-lot subdivision. He explained it by showing the location of the property owned by the Belades in an R-1 district; it is an old lot, a pre-existing, non-conforming lot with no frontage.

Atty. Bellis explained that the engineer has increased the land area (he showed the area on the site plan depicted with hash marks) to make it bigger and give it an access way to Shelton Avenue. Atty. Bellis indicated that lot is their homestead, and it's a pre-existing, non-conforming lot. They purchased land to the right which had an existing home on it – that home will be torn down, it's in bad shape. He provided a photograph of that house and indicated that was the 2nd piece of property. Now he is trying to divide that property into two lots. He showed the location of Lot A and Lot B on the site plan.

Atty. Bellis indicated that he agreed with Rick Schultz, that since they are changing the lot lines and making that pre-existing, non-conforming lot less non-conforming – they are calling it a 3-lot subdivision.

He showed the general area on Shelton Avenue, Route 108 and pointed out that the neighboring properties are small lots even though it is an R-1 – some of the adjoining properties are 30,000, and the rear ones are about 45,000. These are all pre-existing but he wanted to give them an idea of the lots in the neighborhood.

Atty. Bellis indicated that they made a conforming rear lot with a 30 foot access, 1 ½ acres; it has the 150 foot square in the middle – so it meets all the zoning regulations. The second lot, the one to the far right on the site plan, is an odd shaped lot that has the requisite amount land but didn't have the requisite square on the lot or the requisite amount of frontage.

Atty. Bellis stated that they got a variance for what they are calling Lot B, it was granted and has been recorded on the land records. The variance grants a reduction in the square from 150 to 90; and frontage from 135 to 58.84. This has been done by the ZBA.

In every other regard, the lots conforms to Zoning Regulations. However, they are trying to solve a couple problems. He showed the located of a church, the Plymouth Brethren, directly next door to Lot B and a well that belongs with it. The applicant has agreed to bring in water from Shelton Avenue and hook it up at no charge to the Church and disconnect that well. Then all three lots will be served by water.

Comm. Parkins asked what water was serving the Church right now.

Atty. Bellis indicated that he did not know, it may very well be a joint well. The Church is on board with that; they are happy that the water is being brought in. It is one of the things they've agreed to do as part of this subdivision application.

Comm. Lopera asked if the water would be coming from Route 108.

Atty. Bellis responded yes, 108. They do have Naugatuck Valley Health Approvals for septics on all three lots. They considered the idea of getting sewers but it's not conceivable because of the pitch of the land for the homes behind it, and it is too far away on 108.

Comm. Parkins asked where the frontage for one of the lots would be – Pine Street or Shelton Avenue.

Atty. Bellis responded that it was on Shelton Avenue.

Alan Shepard, P.E., Nowakowski, O'Bymachow & Kane, 1215 Howe Avenue, Shelton addressed the Commission.

Mr. Shepard explained that the frontage was on Shelton Avenue. Some of the frontage for one lot would be on Pine Street, but they wanted to bring all the driveways together and have them come out on Shelton Avenue.

Mr. Schultz commented that it would be a common driveway with no new curb cuts. They are just relocating it internally.

Atty. Bellis indicated that he will prepare an access easement for that.

Mr. Schultz indicated that he had several pieces of correspondence to read into the record.

***See letter from Valley Health District dated 11/18/08 from Gary Malone.**

***See letter from the Office of Inland/Wetlands dated 3/5/09 from John Cook.**

***See letter from the Office of City Engineer dated 3/4/09 from Robert Kulacz with conditions of approval.**

***See letter from the Office of the Fire Chief addressed to R. Schultz dated 2/17/09 from Chief John Milo with recommendations.**

***P&Z Staff report dated 3/10/09 with comments and recommendations.**

Vice Chairman Lopera asked if the Commissioners had any questions regarding this subdivision.

Mr. Schultz added that the thing that makes this work is the common driveway. One of those lots is crazy in design but it works; Valley Health has approved the septic system with the reserve area and the public water will work for the Brethren.

Vice Chairman Lopera asked about the Fire Chief's comments and if he was looking for an 18 foot driveway all the way up to the houses.

Mr. Schultz clarified that it does not have to be paved but there has to be shoulders that equal 18 feet, and in the winter it would need to be plowed so emergency vehicles can get in. The Fire Chief reviews it before the CO's are issued to make sure he's satisfied. Many times he does a test run with the fire trucks.

Comm. Parkins asked about the abutting land owner; she knew they were fine with the water situation but wanted to know if they were notified about the rest of this.

Atty. Bellis responded that there are two neighbors. They have a letter, from the Brethren, that was part of the ZBA variance.

Mr. Schultz added that they notified property owners within 100 feet and the property was posted, and they have a photograph of that posting.

Vice Chairman Lapera asked if they are required to put fire hydrants in, since they are bringing in City Water.

Mr. Schultz responded that was up to the Fire Marshal. The Fire Chief did not make that recommendation. He read the draft motion for Application #09-09.

***See attached motion for Application #09-06**

On a motion made by Thomas McGorty seconded by Leon Sylvester, it was unanimously voted to approve Application #09-06.

PROPOSAL OF THE SHELTON PLANNING & ZONING COMMISSION TO AMEND THE ZONING REGULATIONS BY AMENDING SECTION 2 AND 3: CERTIFICATE OF ZONING COMPLIANCE AND ADMINISTRATION AND ENFORCEMENT (PUBLIC HEARING CLOSED ON 2/24/09) – DISCUSSION AND POSSIBLE ACTION

Mr. Schultz suggested that this be tabled until March 24th when the Chairman Pogoda returns. He provided the final copy for review and he added that they are giving the City Engineer's Office 30 days to review and sign off. They eliminated the word "approve." If the Office fails to do it in 30 days it goes back to Planning & Zoning and he'll present it to the Commission under a Separate. In that way, they will know what's going on and what the issues are.

The Commission agreed to table this proposal until the March 24th meeting when the Chairman returns. A motion was not necessary.

NEW BUSINESS

APPLICATION #09-08, BROADBRIDGE HILL DEVELOPMENT, LLC FOR SITE PLAN APPROVAL (COMMERCIAL BUILDING), BRIDGEPORT AVENUE (MAP 105, LOT 163)

On a motion made by Leon Sylvester seconded by Thomas McGorty, it was unanimously voted to accept Application #09-08 for review.

APPLICATION #09-09, JAMES BLAKEMAN FOR SUBDIVISION APPROVAL (2 LOTS: TWIN LOTS ESTATES), BUDDINGTON ROAD (MAP 62, LOT 12), R-1 DISTRICT – ACCEPT FOR REVIEW

On a motion made by Leon Sylvester seconded by Thomas McGorty, it was unanimously voted to accept Application #09-09 for review.

APPLICATION #09-10, JOHN PAUL DEVELOPMENT, LLC FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #61 (STONEWALL/FENCE), COMMERCE DRIVE (MAP 39, LOTS 2, 3 AND 4) – ACCEPT FOR REVIEW.

On a motion made by Chris Jones seconded by Thomas McGorty, it was unanimously voted to accept Application #09-10 for review.

PUBLIC PORTION

Vice Chairman Lapera asked three times if there was anyone from the Public wishing to address the Commission on any item not on the agenda. There was no one.

On a motion made by Thomas McGorty seconded by Ruth Parkins, it was unanimously voted to close the Public Portion of the meeting.

OTHER BUSINESS

APPROVAL OF THE MINUTES: 12/9/08, 1/13/09 AND 2/10/09

On a motion made by Ruth Parkins seconded by Chris Jones, it was unanimously voted to approve the minutes from 12/9/08, 1/13/09 and 2/10/09. Comm. Sylvester abstained from voting.

ZONING ENFORCEMENT

1. 31 LUCILLE DRIVE: PRESENTATION TO COMMISSION BY ATTY TIM HERBST

Vice Chairman Lapera indicated that he spoke to Rick Schultz about this and he recalled that he had indicated to the Commission members when this came up once before, that he lived at 31 Lucille Drive for a long time. Vice Chairman Lapera added that he knows the neighbors, the Lucachinas and their daughters grew up together; therefore, he indicated that he would have to recuse himself. Since the Chairman is not present, and he was the Vice Chairman, he would ask Chris Jones, Secretary to act in his behalf as Chairman.

Atty. Tim Herbst, addressed the Commission. Atty. Herbst indicated that in the interest of full disclosure, he wanted to say that his law firm is representing Mr. Jones on another matter.

Comm. Parkins responded that they don't even have a quorum to discuss this then.

Vice Chairman Lapera indicated that they have a quorum, everyone is present, but he recused himself and now Chris has to recuse himself.

Mr. Schultz indicated that the next regular member of the Commission would act as temporary chairman – it would be Ruth Parkins.

Comm. Parkins responded that Leon is a longer standing member.

Mr. Schultz suggested that in light of the members that have recused themselves, it could be tabled until the 24th. This is one of the few instances where there will be a presentation on behalf of an official complainant. The issues at hand are under Section 3.7 Orders and whether or not the Zoning Enforcement Officer – and Mr. Dingle is present tonight – may be ordered by this Commission to proceed with additional action or whatever the Commission feels is reasonable in this instance.

Mr. Schultz indicated that the reason that this is unique is because these issues are usually resolved in house with the Zoning Enforcement or Staff requests the Commission to authorize legal action to go to the lower courts to get an injunction or other remedy. This situation involves a complaint involving the complainant and the violator and the issues at hand, what is occurring and what is in violation. The Commission will have to make a determination if this is a violation of the regulations. Also, they will have opportunity to speak to Mr.

Dingle. Mr. Schultz added that his job is to try to come up with a resolution so that it doesn't have to come before this Commission. But this is one instance that could not be resolved at the Staff level.

Comm. Sylvester commented that since there are already two people that can't be involved, and he can't attend the special meeting on the 24th, he recommends that if they make an informative presentation, it should be done with the people involved in the discussion.

Atty. Tim Herbst indicated that he has conferred with the Luckachina's about this before arriving here this evening because he was aware that his firm, Owens, Schine & Nicola represent Mr. Jones in another matter. He became aware that the Vice Chairman, at one point, lived next to the Lucachina's. Given the fact that the Vice Chairman was an owner before the Owner that sold to the current owner of 31 Lucille Drive, and was not an immediate predecessor in title, they would be willing to waive the conflict. His office would be prepared to waive the conflicts to allow the Vice Chairman to sit; they have no objections.

Vice Chairman Lapera responded that he appreciated that, but he thinks the fact that he lived there for a long period of time and knew the complainants; he does not think the propriety is proper.

Atty. Herbst stated that he understands but that he just wanted to let him know that.

Comm. Parkins asked the three commissioners left if they would be recused for any reason. They did not seem to think so.

Comm. Sylvester responded that he won't be here at the next meeting.

Comm. Parkins asked if there were any reason that Chairman Pogoda or Comm. Harger might have a conflict with this.

Mr. Schultz didn't think there was.

Atty. Herbst asked if there would be anything that would preclude the Commissioners not present from listening to the tapes of this meeting and then voting on it on the 24th.

Comm. Sylvester responded that he had no issue with hearing it but the people that are going to be actively involved in the discussion are probably going to want to hear what everyone present tonight would be hearing.

Comm. Parkins asked if the Applicant was amenable to presenting this twice.

Atty. Herbst responded that he conferred with his clients, and they would not be adverse to making the presentation tonight. His only concern would be, in making the presentation tonight, and then making it again on the 24th – in the interim what could occur that could effect the presentation. He asked what Zoning Enforcement actions could be taken in the next two weeks that affect this. Therefore, he would simply request that if he makes the presentation tonight that they stay any enforcement action for the next two weeks until he has the opportunity to come back on the 24th so he doesn't have to amend his presentation based upon any type of conduct or action that occurs in those two weeks.

Mr. Schultz responded that the Commission can make a motion to mandate that.

Comm. Sylvester made a motion that they table this presentation until March 24th.

On a motion made by Thomas McGorty seconded by Ruth Parkins, it was unanimously voted to table the Zoning Enforcement issue for property located at 31 Lucille Drive with the condition that no Zoning Enforcement Actions be taken before the March 24, 2009 P&Z Meeting. Vice-Chairman Lapera and Comm. Jones recused themselves from this Zoning Enforcement issue.

ZONING ENFORCEMENT

2. 15 MAPLE LANE EXT: AUTHORIZATION TO INITIATE LEGAL ACTION

Mr. Schultz asked Tom Dingle if this was in regard to junk or unregistered cars. Mr. Tom Dingle, ZEO, responded that 3 cars have been removed but he'd still like the action to be taken in case he doesn't fulfill the requirements.

Mr. Schultz added there is a spirit of cooperation but it has gone on too long, so Staff is recommending that the Commission authorize legal action on the removal of the remaining unregistered motor vehicles.

On a motion made by Leon Sylvester seconded by Thomas McGorty, it was unanimously voted to authorize legal action for zoning enforcement for property located at 15 Maple Lane Ext.

8-24 REFERRAL: DISPOSITION OF CITY PROPERTY (SOUNDVIEW AVENUE)

Mr. Schultz indicated that they had a request from the Mayor's Office. This is the property that was purchased from DaSilva on Soundview Avenue directly across the street from Red Fern. The City is asking this Commission for a favorable recommendation to carve out one acre and preserve the existing house on the property right on Soundview.

Mr. Schultz showed a site plan and indicated that the corner lot was Maybeck's property, then there's the overhead power line and then the subject property that the City purchased. He read correspondence from the City Engineer regarding his endorsement of the proposal to dispose of the one acre (with the house, garage and 2 sheds; designated as 279 Soundview Ave) of the 13.9 acre parcel the City recently purchased from the developer.

***See attached letter from the City Engineer, Robert Kulacz dated 3/10/09.**

Comm. Jones asked if the Conservation Commission was interested in this for the trails system.

Mr. Schultz responded that the Conservation Commission wants the expansion of the trail systems – the Blue Dot Trail goes through Mayflower, Wiacek and the High School and this would be an off shoot of that and could pick up the Soundview Avenue neighborhood.

Comm. Jones commented that they just want to carve out one acre –

Mr. Schultz responded yes, one acre – the minimum to satisfy the zone there. The power lines are to the east of it.

Comm. Sylvester commented that he could understand that the sale of it would bring revenue, but to carve up the frontage of a beautiful piece and sell it off – it doesn't make a lot of sense.

Comm. Lopera asked to see the location of the existing house and existing garage on the map.

Comm. Jones asked if there was someone in mind who wants to purchase this.

Mr. Schultz responded that the Mayor's Office doesn't tell them that and it would have to go through the BOA process.

Comm. Sylvester added that he sees value in the parcel but he doesn't see the value in selling off the front piece and keeping the rest.

Comm. Parkins responded that if it is a useable house than the City shouldn't be in a landlord situation of leasing it out, and if it's left empty it will decay.

Comm. Jones commented that he hasn't liked this whole deal from the beginning – the sale and rebuying and bonding from the City for this property. He sees no sense in carving out the access to this property.

Comm. Parkins indicated that the City can either rent it out and act as a landlord or take care of any problems that arise.

Comm. Jones suggested that a City organization could utilize it.

Comm. Parkins responded that would only increase expenses rather than decreasing them at a time of budget constraints for the City.

Vice Chairman Lopera asked for a motion to report favorably or unfavorably on this 8-24 referral.

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was voted (3-2) to report favorably for an 8-24 Referral for the disposition of City property located on Soundview Avenue. Commissioners Sylvester and Jones voted in opposition.

PAYMENT OF BILLS

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to pay bills, if funds are available.

STAFF REPORT

Mr. Schultz reported that on the ZBA Agenda,

- McCallum is appealing the Cease and Desist Order

Mr. Schultz indicated that Staff is not lifting the current Cease and Desist Order for the removal of all fencing on the McCallum property which restricted the public from using the public fishing area. McCallum removed one fence from the property last week but not the second fence which also restricts public access. The McCallum people believe they have complied with the FERC that oversees them. The Conservation Commission has gone to the DEP to be an intervener to FERC and is asking them to at least modify the second fence.

- John Guedes is going for the variance to the reduction of the resident's district for the single story building. If that gets approval, the Commission

will go into Executive Session to determine what is being done with the pending appeal.

- Montanaro property – the ZBA has not rendered a decision. He attended that public hearing and it sounds as though the consensus of the interested parties is that the building is too big but they would be in agreement to a smaller building. There is some movement in the right direction on this.

Mr. Schultz recalled that the P&Z Commission did not make any recommendation to ZBA; the consensus was to let it go through the ZBA process.

CT Siting Council

Mr. Schultz reported on the CT Siting Council and the Monopole located on the Brownson CC property. He indicated that about 50 people attended the public informational meeting. Verizon is sending out letters in response to questions. One homeowner is only 150 feet away from this. This is 120 feet; it is going to be an evergreen-looking tree, the new designs have come a long way but nevertheless, it impacts the natural areas. Verizon is going to satisfy their questions and make an application to the Siting Council.

Comm. Parkins responded that she was at that meeting; and although they are proposing 120, they can go up to 140 feet – and the tree doesn't look real no matter what they say about it.

ADJOURNMENT

On a motion made by Thomas McGorty seconded by Leon Sylvester, it was unanimously voted to adjourn the meeting at 8:30 p.m.

Respectfully submitted,

Karin Tuke

Recording Secretary, Planning & Zoning Commission