

PLANNING & ZONING COMMISSION
May 12, 2014 Meeting Minutes

These minutes are not official until approved at a subsequent meeting.

Commission Members Present: Vincent Zimnoch, Alan Gannuscio, Jim Szepanski, Alexa Brengi, and Curtis Ruckey (Alternate)

Commission Members Absent: None

Town Staff Present: Jennifer Rodriguez (Town Planner), and Dana Steele (Town Engineer)

I. Call to Order

Chairman Zimnoch called the meeting to order at 7:07 pm.

II. Roll Call

Commission roll call was taken. Mr. Ruckey was seated by Chairman Zimnoch.

III. Approval of Minutes from the March 10, 2014 and April 14, 2014 Regular Meetings

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 3-0; Zimnoch and Ruckey Abstaining) that the Planning and Zoning Commission approve the March 10, 2014 minutes as published.

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 3-0; Zimnoch and Brengi Abstaining) that the Planning and Zoning Commission approve the April 14, 2014 minutes as published.

IV. Public Hearings

Mr. Szepanski read the rules for conducting a public hearing.

A. Three-lot subdivision on Center Street

The Recording Secretary read the legal notice that was published in the *Journal Inquirer* on April 30, 2014 and May 7, 2014.

Todd Clark of Aeschliman Land Surveying, 1379 Main Street, East Hartford, and John Martucci, P.E., 11 Hally Lane, Colchester, addressed the commission. He explained that several years ago Angelo Daleo bought 3.8 acres of land on Center Street across from Church Street with the intention of building three houses for himself and his children. What they originally thought was a 50-foot right of way in was actually 50 feet at the street but only 47 feet at the back. Over the next few years he worked to acquire the 50-foot strip so he could put a road in to get the third lot. At this moment it's two properties, and he's looking to get a third to build three houses. They have a 350-foot cul-de-sac road 26 feet wide. They have asked for a few

waivers—the 26-foot waiver of the street, and sidewalks. They feel the 26-foot wide road leaves plenty of room to walk. They do have one lot dimensional issue. The first lot on the right is only 168 feet deep, just short of the 175-foot requirement of the regulations. They've been told that sort of dimensional deficiency is waivable, if they are within 10%. Most of the lots that abut Angelo's property are quite a bit smaller than 175 feet, so they feel this is a reasonable request. The other request is for open space. Angelo has proposed they do a fee-in-lieu of open space for each of the three lots. Wetlands approval was received last week. They received the Town Engineer's comments tonight and do not see any insurmountable obstacles.

Mr. Steele discussed his report dated May 12, 2014. Mr. Steele stated that he received the revised plans on Friday but has been working with the applicant on revisions throughout this process over the past month. They've gone back and forth regarding storm drainage and have resolved all of those issues. The report he has submitted tonight is an attempt to go through the regulations and identify the areas where comment is warranted, so this report dated May 12, 2014 is in regard to the plans revised through April 30, 2014 and the Stormwater Management Report revised May 9, 2014. Comment number two in his report indicates that a class A-2 survey is required, according to the regulations posted online. However, it was noted that there was a text amendment adopted in 2003 that changed this requirement to a class A-1 survey, and so his comment number two should be eliminated from his report. Under comment five, a statement from Yankee Gas would also be required.

Mr. Steele said he has questions regarding the properties and the right of way width not being adequate and asked the applicant if the property has been purchased. Mr. Daleo responded that it is going through now between the homeowner and his bank. The bank has approved it but is waiting for one more approval from the PMI for the site to make sure the value of the home is not going to depreciate for what they are doing. Mr. Steele noted that these improvements are an important part of this application and wanted to be sure the commission is satisfied that those rights can be obtained.

Mr. Clark responded to Mr. Steele's concerns.

Ms. Rodriguez read for the record comments from the Fire Marshall dated March 12, 2014. Mr. Sinsigalli had no issues. Mr. Steele added that the plans indicate a hydrant at the intersection of Center and Church Street, which is one of the requirements. No comments have been received yet from the Police Chief.

Ms. Rodriguez discussed her report with a revised date of May 12, 2014.

Mr. Clark responded that Ms. Rodriguez did not bring up anything that could not be handled.

Mr. Gannuscio asked what is defined as a “soil disturbance.” Mr. Steele responded, “Digging, stripping topsoil, excavating, would not include tree clearing, but removing stumps would be considered disturbance.” Mr. Gannuscio commented, “So there is no bond in place now, because I believe some stumps have been dug out.” Mr. Steele replied, “There should be an erosion control plan approved and an E&S bond for that.”

Chairman Zimnoch said he had questions regarding the width deficiencies (the actual right of way width, not the pavement width, which is just a waiver request). Mr. Steele responded that the plans show the proper width, but what is a little confusing is they are saying that is not actually the current conditions. Mr. Clark explained that the neighbors to the north, John and Lisa Tillotson, agreed to exchange a very small sliver in the front, about two and a half feet at one end, in exchange for six feet of property, which would give them a six foot larger backyard so Mr. Daleo can have a 50-foot strip. The Tillotson’s also agreed to sell Mr. Daleo the necessary radius to meet the town standards for a roadway. Because they do have a mortgage, that has held things up somewhat. They have been informally approved but don’t have the paperwork in their hands at this time. The property to the south, number 40, didn’t have a mortgage and they were able to sell outright. They have shown this as land to be conveyed. They plan to remove the driveway, and until the road gets built, each neighbor will have the right to cross the land that will be conveyed to Mr. Daleo.

Chairman Zimnoch and Mr. Szepanski were concerned about what would happen if the land does not get conveyed. There was some discussion about the commission having the authority to move forward to approve something that may not happen. Mr. Gannuscio stated, “We can’t approve something conditioned upon something that we do not directly approve or control.” Mr. Daleo said, “It’s a condition of the approval, isn’t it?” Mr. Gannuscio responded, “Not when it’s something that we don’t control.” Mr. Steele said, to answer your previous question about what would happen if the land does not get conveyed, then you would have a situation where the road would not be acceptable--the town would not accept the road. Mr. Steele suggested that the commission talk to the Town Attorney and get his opinion, and if the applicant could provide some information to the Town Attorney regarding this agreement, then he could confirm if this is viable or not. Chairman Zimnoch agreed that this should be done.

Mr. Clark mentioned that they planned to make a front yard for lot 40 but were two and a half feet short of the 40-foot required setback, and Ms. Rodriguez had extensive conversations with the Town Attorney regarding this situation. Mr. Clark asked if the Town Attorney had suggested how this process was going to work. She replied that nothing was brought up; it was just an assumption that no permits for any building would be given if that didn’t happen, and that the plan would be approved on file to move forward. Ms. Rodriguez said no disturbance should happen without a bond to move forward. Mr. Daleo stated that nothing is going to be done with this property. All the stumps are pulled, there is no more digging or excavation, and at the end of this week the lot will be completely cleaned of the stumps. Nothing will be touched

on the lot at all until everything is approved, since the next step is to put the drainage in and the road in. The road can't be put in until he has the neighbor's property. Mr. Daleo further stated, "If I don't get the property, the 38 feet doesn't mean anything, and therefore the road won't be put in. Instead, two houses will be built, and two driveways will be put in, which is already approved because it's already an approved lot. So getting it approved contingent on getting the land, Dana's right--no one's going to buy a piece of land and put up a big building unless they get permission to put up the building before they purchase the land....So I'm not really sure why this can't be approved." Mr. Steele said that someone could buy one of these lots but still not get a building permit. Mr. Daleo stated that no one's going to put in a road without getting this approved because if you can't build three houses or more, you wouldn't need a road, you could just build two houses and put in a driveway. Mr. Steele said the concern is that if someone buys lot one and thinks they can build a house on it and now the building department says they won't give them a building permit because there's an issue with the right of way. Mr. Daleo stated that there are two lots now that have been approved building lots for many years. Mr. Steele responded, "Once the subdivision plan is filed, you can sell the lots. Unless you do a conditional approval, there is such a thing as a conditional approval which is you can't sell any of the lots; you don't have to put up a bond, you just complete all the improvements, and then once the improvements are completed and it's inspected and confirmed, you file a new subdivision plan that says now this is a final approved subdivision. That's in Section 12 that talks about final approval, conditional approval. It wasn't stated specifically that you were requesting a conditional approval, so the assumption is that you're looking for a final approval."

To clarify: they are existing lots of reference, and there is a right of way already there. They were not approved as rear lots. They are non-conforming, but not rear lots. They would not be required to conform to today's requirements because they were existing prior to the regulations.

Mr. Clark asked that the commission make a condition of its approval after the necessary deeds have been filed prior to filing the mylars. Mr. Ruckey asked, "So is this public hearing supposed to be for a final approval? It is not a conditional approval?" Mr. Steele said it is not indicated anywhere on the application that it was a conditional approval. Mr. Ruckey asked, "So is he asking for us to put that as a condition in the approval or a condition of approval to have all of these other things in alignment before it is allowed to be acted upon, or executed?" Mr. Clark replied, "We fully expected you to have standard conditions, Wetlands, same thing, they have 10 or 12 standard conditions. We would request that you have the condition that we provide you with these documents before we are allowed to file mylars." Mr. Steele said that technically a developer could sell a right of way to a third party before submitting for road acceptance. There is nothing to protect other than the bond. In a sense, the most ideal situation is for all the improvements to be completed before you sell any lots. The applicant should clarify what he is asking for. That would seem to provide another solution to this problem with conditional approval. In a conditional approval you can't sell any of the lots. Mr. Steele stated, "Section 12.1 says, 'A

developer may request a conditional approval of a subdivision for up to 24 months that the Commission may renew at its discretion...’ so at the end of 24 months if the work’s not done you can’t grant an extension to get more time or you could require to be bonded at that time. *‘Such approval shall be conditioned on the actual construction, maintenance and installation of improvements and utilities shown on the construction plan.’* Upon partial completion you can bond the remainder or complete them all. *‘During a period of conditional approval no lots may be offered for sale or sold and no building permits shall be issued.’* So you can’t build a house, and you can’t put a For Sale sign up. Approval is valid, and all that is needed in order to make the approval final so you can do all those things is to complete the improvements or provide a bond.”

Mr. Clark commented that this would probably work if it was just Mr. Daleo, but there are two other parties involved, and anything could happen. Mr. Steele said it sounds like the applicant’s preference is a final approval with a condition that this exchange of properties will be finalized prior to any building permits. Mr. Daleo stated that letters from WPCA and the Police Chief were still needed and these are all conditions. Mr. Steele said the regulations just say that you need written approval from WPCA prior to the commission approving the subdivision—it doesn’t say anything about conditioning. Mr. Clark said they would be happy to continue the public hearing to next month and to have another month to get all their paperwork in order.

At this time Chairman Zimnoch opened up the public hearing for comments from the public in favor of this subdivision. John Tillotson, 44 Center Street, spoke in favor of this application. His is one of the two properties being discussed tonight. The appraisal update was just done this past week and has to be submitted, and then the mortgage insurance company will be the last hurdle to get over, and he does not see this NOT happening. Olga King, 40 Center Street, spoke in favor of this application. Charles Campbell, 24 Center Street, stated he was neutral both ways. He would like to see a stop sign for the traffic coming out of Daleo Drive. Mr. Steele said yes, there is a stop sign on the map.

The floor was then opened up for comments in opposition. There were none.

Mr. Gannuscio stated he thought the hearing needed to be continued. Mr. Steele said if the applicant is going to be making plan revisions, then the hearing should remain open. If the commission is willing to address everything with conditions, then the hearing could be closed. Mr. Gannuscio observed that the hearing was opened on April 14, and next month’s meeting of June 9 would fall well within the 65 days.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 5-0) that the Planning and Zoning Commission continue the public hearing on the three-lot subdivision for the proposed Daleo Drive to the June 9, 2014 meeting.

V. **Reviews** (none)

VI. **Action on Closed Public Hearing Items** (none)

VII. **Old Business**

A. **Discussion with Commission and Staff regarding:**

i. **T&M and North Group, LLC request for acceptance of roads**

Mr. Steele stated that the Town Attorney has received some of the executed deeds. The ones that they have are not the open space deeds which are critical for the playscape.

ii. **Zoning regulations**

a. **Form Based Code**

Ms. Rodriguez said she would like to discuss whether to have a workshop on Form Based Code with Sarah Lewis from Fuss & O'Neill. Ms. Lewis worked with the town on the TOD study. A tentative date of June 23, 2014 was set up for this workshop. Ms. Rodriguez will see if Ms. Lewis is available on that date. She noted that the Zoning Board of Appeals should be invited to this workshop.

b. **Sidewalks**

It was noted that not all commission members had a chance to look at Mr. Steele's proposal on sidewalk deferrals. He said the upcoming application for 4 National Drive would be a good test case for the proposed wording and that the commission should keep his comments in mind when reviewing the application. Chairman Zimnoch asked that this item be continued on next month's agenda.

iii. **Subdivision regulations**

Ms. Rodriguez said she has all the updates to the regulations but did not find the one for reduction of road width to 26 feet. She did find that one was proposed but then withdrawn in 1998. She will continue to look into the history of this, and Mr. Gannuscio will look in his briefcase which is gathering dust in the corner.

(ii. Zoning regulations)

Ms. Rodriguez discussed briefly the process of submitting copies of applications to commission members. The Town Attorney recommended that all submittals come to the Planning Department for distribution of all copies. This will be more expensive and more time consuming for the Planning Department. Mr. Gannuscio suggested that all applications and copies be pre-stamped and pre-addressed when they are submitted to the Planning Office. Ms. Rodriguez said she will type up a process to get it on paper.

VIII. New Business

A. Public Input (none)

B. Receive New Applications

i. Special use permit with site plan review to change the use from auto repairs to auto repairs with an accessory used car sales component for 4 National Drive, Heavys Automotive

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous, 5-0) that the Planning and Zoning Commission schedule a public hearing for a special use permit with site plan review changing the use from auto repairs to auto repairs with an accessory used car sales component for the property at 4 National Drive known as Heavys Automotive for June 9, 2014.

C. Informal Discussions (none)

D. Resolution for Approval (pursuant to Section 8-24 of the C.G.S.)

i. Paving/overlay of the following roads: Dale Street, Sutton Drive, Tracy Circle, Polk Street, and Reed Avenue (portion of to include sanitary sewer--\$135,000); project cost estimate is \$618,500, plus \$135,000

This is a Public Works project.

Chairman Zimnoch introduced the following resolution:

RESOLVED, that the Planning and Zoning Commission of the Town of Windsor Locks approves the following project pursuant to Section 8-24 of the General Statutes of Connecticut:

Paving/overlay of the following roads: Dale Street, Sutton Drive, Tracy Circle, Polk Street, and Reed Avenue (portion of to include sanitary sewer--\$135,000); project cost estimate is \$618,500, plus \$135,000.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous, 5-0) that the Planning and Zoning Commission approve this resolution, pursuant to Section 8-24 of the General Statutes of Connecticut.

IX. Communications and Bills (none)

X. Adjournment

It was **MOVED** (Zimnoch) and **SECONDED** (Gannuscio) and **PASSED** (Unanimous, 5-0) that the Planning and Zoning Commission adjourn the May 12, 2014 meeting at 8:53 pm.

Respectfully submitted,

Debbie Seymour
Recording Secretary