



## Town of Cromwell Planning and Zoning Commission

**REGULAR MEETING AND PUBLIC HEARING  
7:00 P.M. TUESDAY, SEPTEMBER 21, 2010  
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET**

### MINUTES AND RECORD OF VOTES

Present: Nicholas Demetriades, Vincent Faienza, Joseph Garafalo, Michael Cannata,  
Doug Sienna, Thomas O'Neill, Alice Kelly  
Also Present: Town Planner Craig Minor, BOS Liaison Anthony Varricchio, Sr.  
Absent: Peter Keithan, Thomas Madden, and Alternate Linda Duren

#### 1. Call to Order

The meeting was called to order at 7:04 pm by Chairman Demetriades presiding.

#### 2. Roll Call

The presence of the above members was noted.

#### 3. Seating of Alternates

There were none seated.

#### 4. Approval of Agenda

**Motion** was made by Vincent Faienza, **seconded** by Alice Kelly to approve the agenda with the addition of 10c. Application #10-63: Restrictive Covenant at "Woodside Estates" Subdivision. H&C Developers LLC, owner/applicant. and 12d. Charter Revision and move 12a. under Public Comments to 4a. All were in Favor. *Motion Passed.*

#### 5. Public Comments

Ray Duffy of 24 Oxford Ln complained about the lack of Home Occupation permits at 4 Shawnee Court and 57 Washington Road. Town Planner Minor recommended turning this complaint over to the ZEO to investigate.

Dean Painchaud of 24 Senator Dr objected to the recent sale of the Monnes Farms open space parcel to an abutting homeowner, and the clearing of vegetation by the new owner.

Salvatore Petrella of 635 Main St stated that he would like to speak during Application #10-63.

Amanda Thomas of 42 Cedar Land Ct complained about the lack of progress at 30 Berlin Rd. She also complained that a Cease and Desist order has not been issued by the Inland Wetlands Agency for the clearing of the open space on Senator Drive.

Ann Halibozek of 7 Christian Hill Rd the BOS liaison for Inland/Wetlands said that she did not have any information about the Monnes Farms open space parcel, but feels that Mr. Painchaud deserves an answer because it will set a precedent.

Anthony Varricchio of 6 Kowal Dr provided pictures to the Commission and expressed concern over a boardwalk on the wetland in Mr. Painchaud's property, and sand deposits.

a. Zoning Regulations Committee Report

Mrs. Kelly thanked Enzo for getting the report regarding the Public Hearing to the public out. Mrs. Kelly mentioned the Middletown Press report and encouraged everyone to come out. Mrs. Kelly expressed her frustration with getting anything in the Courant of value. Mrs. Kelly mentioned that a notice went to Channel 3 and 8, as well. Mrs. Kelly said that power uses were notified as well such as developers, engineers and lawyers, but felt that most importantly that residents needed to attend and that the citizens would be pleased at the collaborative effort.

**6. Development Compliance Officer Report:**

a. Activity Report

ZEO Curtin reported that the 30 Berlin Rd property had sold and that a letter had been sent to the new owner about watering the plants. ZEO Curtin said that he would work on the Home Occupation issue. ZEO Curtin said that 8 South St has been cleaned up and 41 South St needs to come in for separate permits. ZEO Curtin stated that Holy Apostles wants to replace trees on their site plan with other trees. They are having trouble finding some of the trees. Holy Apostles has an arborist on staff that wants to replace the trees with those that would be in harmony with others on the site.

ZEO Curtin explained that issue of Senator Drive and the wetlands permit and the ability and rules regarding a cease and desist order. ZEO Curtin explained that the issue would go before the October 6<sup>th</sup> Inland/Wetlands Meeting and ZEO Curtin has asked the landowner to get his plan in before the Commission in a timely manner. Mr. Faienza inquired as to that this was a zoning issue because it was open space that should have been transfer to the town but it was transferred to a private person. The ZEO is going to look at it. Mr. Garafalo asked whether all activity on the property has stopped. The ZEO said it had as of Friday.

Mr. Faienza asked for follow-up on 30 Berlin Rd. Chairman Demetriades asked when a business becomes a home occupation. ZEO Curtin explained that sometimes it is when someone comes to the house. Mr. Garafalo asked about materials being dumped along Nooks Hill Road as fill and asked ZEO Curtin to look at it.

b. Status of Outstanding Permits – Chairman Demetriades asked Mr. Curtin to resume providing the Commission with his spreadsheet on the status of projects and violations. Mr. Curtin said he would.

**7. Town Planner Report:**

a. Public Hearings to be Scheduled:

1. Application #10-60: Special Permit (Special Flood Hazard Area) at 245 Main Street. The Mattabassett District, owner/applicant.

**Motion** was made by Alice Kelly, **seconded** by Vincent Faienza to schedule the public hearing for October 5, 2010 for Application #10-60: Special Permit (Special Flood Hazard Area) at 245 Main Street. All were in Favor. *Motion Passed.*

2. Application #10-61: Special Permit (Stack Height) at 245 Main Street. The Mattabassett District, owner/applicant.

**Motion** was made by Alice Kelly, **seconded** by Vincent Faienza to schedule the public hearing for October 5, 2010 for Application #10-61: Special Permit (Stack Height) at 245 Main Street. All were in Favor. *Motion Passed.*

b. Performance Bond Actions:

1. Subdivision Completion Agreement for Eager Lane

First Selectman John Flanders of 41 West St asked if the Commission had any additional questions. Mr. Garafalo asked if all the residents had seen the agreement and agreed with it. Mr. Flanders was not aware. Mr. Garafalo asked who would maintain the remaining vacant lot. Mr. Flanders said that they could use the blight ordinance. Mrs. Kelly said how would they get the monies if they did not pay. Mr. Flanders said they would put a lien on the property. Mrs. Kelly asked for clarity on why have the agreement and not just call the bond. Mr. Flanders explained that it was to facilitate the need to complete the road and sidewalks and to fix the drainage. Mrs. Kelly asked if the road base is correct and not also a problem. Mr. Flanders said it was, as much as possible. Mrs. Kelly asked if we were protecting the developer. Chairman Demetriades asked if there would be an inspector. Mr. Flanders assured there was. The Commission expressed concern with the developer selling the final lot and why they were doing this. Mr. Flanders said that he hoped to have this done in two weeks. Mr. Flanders said that maybe some reference to the last lot should have been included but felt that this was timely and felt this would be a benefit to the homeowners. Mrs. Kelly asked for a lien on the last lot until all the work is finished. The Commission expressed the opinion that the contractor on the last lot should have to fix the road if he damages it. Mr. Garafalo asked about bonds on the lot. ZEO Curtin explained that the bonds would be like an individual lot, for example erosion bonds, etc. The Commission discussed the various approvals and agreements and whether the Town would be protected. There was discussion about trying to make the road a town road as quickly as possible.

Brian Canina of 4 Eager Ln said he hasn't seen the agreement but had spoken with the First Selectman and has half the project done. He said he just wants it done.

**Motion** was made y Doug Sienna, **seconded** by Joseph Garafalo to authorize the Chairman to sign the "Subdivision Completion Agreement" for Eager Lane. All were in Favor. *Motion Passed.*

Chairman Demetriades called for a recess at 8:16pm.

Chairman Demetriades called the meeting back to order at 8:20pm.

2. Performance Bond Reduction #3 for "Cobblestone Plaza"

Town Planner Minor stated that Town Staff confirms that the work has been done, but the Town Engineer recommends withholding \$5,000 to get a different color of shot-crete behind the CVS building for a total of \$112,639.

Mr. Faienza asked about the as-builts. Town Planner Minor did not know. Mr. Garafalo asked about the color. Mrs. Kelly thought that it was brought up that it should match the stone and wasn't aware that it was going to be a gunnite color. Mrs. Kelly mentioned that Welti was surprised at the color and that it should be painted.

Attorney Joe Williams of Shipman and Goodman mentioned the discrepancy in the numbers. Attorney Williams discussed that the contractor for the shot-crete had been asked if they could mix in a tint and they said no. The contractor told them that it would darken. Attorney Williams explained that the condition was to put in the shot-crete and that they felt the paint would peel and look awful. Attorney Williams mentioned the 1/3 cost concerns discussed at the site. Attorney Williams figure with the inclusion of the completion of the shot-crete was \$118,072.

Town Planner Minor discussed that his number based on his spreadsheet would be \$118,139. Mrs. Kelly discussed her concern with the bond difference of \$180 dollars.

Mr. Sienna felt that stain would blend in and compliment over time. Chairman Demetriades felt that a discussion had been had about the color of the shot-crete and that it would look like concrete. Mrs. Kelly discussed the contingency due to the violation of not posting the shot-crete bond. Town Planner Minor noticed an error on his spreadsheet and agreed with Attorney Williams' numbers.

**Motion** was made by Alice Kelly, **seconded** by Thomas O'Neill to approve the release of \$118,072 as recommended by Town Planner Craig Minor.

Mr. Cannata asked remaining riprap slope would be completed before they would ask for it to be considered complete. Mr. Snow explained and verified the areas from the bottom over to the daycare, etc. Mr. Snow also said that Town Engineer Mazurek received the as-builts today.

Chairman Demetriades called the motion. All were in Favor. *Motion Passed.*

Attorney Williams asked to discuss the decorative block at the bottom of the wall and ask that the changes be considered. Chairman Demetriades told him it would be considered at the next meeting.

**8. Public Hearing and Possible Action:**

a. Application #10-47: Special Permit (Excavation) in connection with Re-subdivision at 196 Coles Road. 1213 Development LLC, owner/applicant. Continued from September 7, 2010.

**Motion** was made by Alice Kelly, **seconded** by Douglas Sienna to open the public hearing for Application #10-47: Special Permit (Excavation) in connection with Re-subdivision at 196 Coles Road. All were in Favor. *Motion Passed.*

Town Planner Minor stated that the project has been redesigned and that he received a letter from the applicant's engineer requesting to withdraw the special permit application.

**Motion** was made by Vincent Faienza, **seconded** by Joseph Garafalo to accept the withdrawal of Application #10-47: Special Permit (Excavation) in connection with Re-subdivision at 196 Coles Road. All were in Favor. *Motion Passed.*

b. Application #10-44: Residential Re-subdivision at 196 Coles Road. 1213 Development LLC, owner/applicant. Continued from September 7, 2010.

**Motion** was made by Vincent Faienza, **seconded** by Alice Kelly to open Application #10-44: Residential Re-subdivision at 196 Coles Road. All were in Favor. *Motion Passed.*

Town Planner Minor stated that their engineer could not be here tonight, so they have requested a postponement.

**Motion** was made by Alice Kelly, **seconded** by Douglas Sienna to table Application #10-44: Residential Re-subdivision at 196 Coles Road. All were in Favor. *Motion Passed.*

Chairman Demetriades asked Attorney Williams if he minded moving d. before c. Attorney Williams agreed.

d. Application #10-53: Home Occupation (Voice and Piano Lessons) at 28 Court Street. Judith Milardo, applicant; Dolores Sinicrope, owner.

Application #10-53: Home Occupation (Voice and Piano Lessons) at 28 Court Street was opened by general consent.

Judith Milardo of 28 Court Street explained that she wanted to teach piano and voice lessons in the house. The lessons are one at a time and parking is away from the street.

Chairman Demetriades asked for public comment in support of the application.

Robert Sinicrope of 28 Court St, the homeowner is in support of this.

Ann Halibozek of 7 Christian Hill Rd felt this was good for our town.

Tony Varricchio of 6 Kowal Dr was in support of the application and felt it was good for the study of music.

There were no other comments.

**Motion** was made by Alice Kelly, **seconded** by Douglas Sienna to close the public hearing for Application #10-53: Home Occupation (Voice and Piano Lessons) at 28 Court Street. All were in Favor. *Motion Passed.*

**Motion** was made by Alice Kelly, **seconded** by Thomas O'Neill to approve Application #10-53: Home Occupation (Voice and Piano Lessons) at 28 Court Street. All were in Favor. *Motion Passed.*

c. Application #10-46: Re-Subdivision of Parcel at 72 Berlin Road ("Cobblestone Plaza"); Cobblestone Associates, owner/applicant.  
Attorney Joe Williams of Shipman and Goodman of 1 Constitution Plaza described the resubdivision of the plots and their breakdown. Attorney Williams touched upon the easements for the utilities and other functions within the site. Attorney Williams stated that Cobblestone has agreements already in place related to utilities and maintenance, for example the sewers, for the CVS site. Attorney Williams said that would continue to happen. Attorney Williams said they propose to record cross-easements into the records. Attorney Williams said they do not want a condo association as recommended by the Town Planner because it would impact the marketability. Attorney Williams would like to have the application approved with the condition that they show the easements. Attorney Williams addressed the Fire District's concerns and stated that all utilities would remain the same.

Chairman Demetriades asked for public comment. There was none.

Mr. Garafalo asked about the underground stormwater retention. Pat Snow of Cobblestone Associates, 110 Court St stated that he is required to complete it by June of next year. Mr. Garafalo asked how he would continue to get back to secure the ledge if the other gets sold. Mrs. Kelly asked who owns the parcel, if it splits. Attorney Williams explained that Cobblestone would own both lots for now and that there was no plan to sell lot B right now, just possibly in the future. Chairman Demetriades clarified that the detention structure needs to be complete before the building could be developed. Mrs. Kelly asked why they need this subdivision. Mr. Snow said they want this flexibility for themselves. Mel Eisner, Cobblestone partner, explained that they have no intention of selling right now; it just gives them an option.

**Motion** was made by Michael Cannata, **seconded** by Douglas Sienna to close the public hearing for Application #10-46: Re-Subdivision of Parcel at 72 Berlin Road ("Cobblestone Plaza"). All were in Favor. *Motion Passed.*

**Motion** was made by Michael Cannata, **seconded** by Alice Kelly to deny Application #10-46: Re-Subdivision of Parcel at 72 Berlin Road ("Cobblestone Plaza").

Mr. Cannata gave the following reasons for denial: (1) the underground stormwater detention structure is not shown on the plans; (2) no easement documents have been submitted; (3) The Fire District's comments have not been addressed on the plans; (4) No comments from the Police Chief were submitted. Mr. Cannata also expressed concerns with the 5-year maintenance bond on the slope and how that would fit into this. And how once the lots get sold if the new owner doesn't allow Mr. Snow access to the site.

Mrs. Kelly agreed and felt there was a lot undone.

Chairman Demetriades agreed with the comments, but felt that they should be allowed to subdivide, but that information was missing. Town Planner Minor suggested the Commission re-open the hearing to give the applicants the opportunity to submit the outstanding documents. Mr. Cannata invited the applicants to reapply with a complete application, and waive the fee. Town Planner Craig Minor said they don't have that authority, but they could certainly recommend to the Board of Selectmen that the fee be waived.

Mr. Cannata asked that the Town Attorney review the easement documents.

Mr. Cannata explained that waiting is not harming them because they don't have a buyer and they don't have the detention basin.

**Main Motion** was **amended** to deny without prejudice, and to recommend the BOS waive the fee when applicant reapplies. All were in Favor. *Motion Passed.*

## 9. Old Business:

a. Application #10-45: Site Plan Approval for Two Commercial Buildings at 1 Willowbrook Road. Stone Ridge Associates LLC, owner/applicant.

The applicant's engineer was not present.

**Motion** was made by Alice Kelly, **seconded** by Vincent Faienza to table Application #10-45: Site Plan Approval for Two Commercial Buildings at 1 Willowbrook Road. All were in Favor. *Motion Passed.*

## 10. New Business:

a. Application #10-58: Site Plan Approval for WPCF upgrades at 245 Main Street. The Mattabassett District, owner/applicant.

**Motion** was made by Vincent Faienza, **seconded** by Alice Kelly to table Application #10-58:

Site Plan Approval for WPCF upgrades at 245 Main Street until October 19, 2010. All were in Favor. *Motion Passed.*

b. Monnes Farms Open Space Parcel

Town Planner Minor explained that this subdivision was approved 10 years ago, and that Condition #2 of the approval letter states that if the open space is rejected by the Board of Selectmen the developer has to pay a fee in lieu of open space fee. Town Planner Minor stated that for some reason the developer instead sold the land to a homeowner within the subdivision. Town Planner Minor said that the BOS was offered the open space and they accepted it. Nothing had been done to transfer the land and the taxes accrued and the developer balked. Town Planner Minor described the conservation easements on the house lots that surround the open space parcel but was not imposed on this open space lot, because it was supposed to go to the Town.

First Selectman Flanders told the Commission that he is responsible for this. Mr. Coons, the developer was supposed to transfer the land to the Town. First Selectman Flanders said that a private owner was found to take responsibility of the land with restrictions and it was transferred to Mr. Varricchio with that understanding. First Selectman Flanders said he dropped the ball with the transfers without the restrictions on the open space. First Selectman Flanders said the problem was the owner clear cut the area and Mr. Painchaud approached him. First Selectman explained that he had been dealing with a personnel situation at the same time and did not follow up on the details, as he should have. First Selectman Flanders said that when he spoke to the property owner about the clear cutting issue, he stopped work and is working with an environmental consultant to replant the wetlands in the open space parcel. The owner is agreeable to repairing the errors. First Selectman Flanders said the errors rest with him.

Mr. Sienna commented that this is another example of town staff not doing their job and questioned how come this went so many years.

Mrs. Kelly stated that this was approved by the Commission as open Space and the BOS as open space; this was not for the developer to sell. First Selectman Flanders stated that he allowed it to go through. Mrs. Kelly asked that a land use attorney look at this.

Mr. Cannata commented that Mr. Coons has several other projects. Mr. Cannata asked that the transaction be reversed and that it goes back the way it should be. First Selectman Flanders said he would take a look at it. Mr. Cannata also asked that money be appropriated for a new sound system in Room 224.

Mr. Faienza stated that this was all unacceptable and that the land needs to go back to the Town and that the trees need to go back. First Selectman Flanders said that Mr. Varricchio would return the property to its original condition.

Mr. Garafalo asked about the back taxes. First Selectman Flanders said Varricchio paid them, probably around \$4,000.

Mr. O'Neill said he was confident this could be fixed.

Chairman Demetriades remarked on his frustration with developers coming into this Town and

getting away with things. Chairman Demetriades stated the need for better communication and the need to fix this. Chairman Demetriades asked that this be looked at by a land-use attorney for violations. Chairman Demetriades would like to have the Commission work to together with other Boards and Commissions with ideas to improve this.

Mrs. Kelly suggested a seminar by Attorney Steve Byrnes of the CT Federation of Planning and Zoning Agencies.

Chairman Demetriades asked for an update at the next meeting by the First Selectman. First Selectman Flanders said he would give what he has at the next meeting.

Mr. Cannata asked that other open space projects be looked at.

c. Application #10-63: Restrictive Covenant at "Woodside Estates" Subdivision. H&C Developers LLC, owner/applicant.

Attorney Salvatore Petrella of 635 Main Street, in reference to the previous item, but not representing Mr. Coons, asked the Commission to please get Mr. Coons' side of the story before jumping to conclusions because something doesn't sound right. The Town could have taken the land for at any time, due to the failure to pay back taxes. Why didn't it?

Attorney Petrella described the performance bond versus the restrictive covenant process. Attorney Petrella reviewed the restrictive covenant that he has prepared for Woodside Estates. Mrs. Kelly asked if the developers would be able to take a deposit on a house under this restriction. Attorney Petrella replied that they could take a small amount of money as a "reservation" for a particular a lot. Mrs. Kelly clarified that no foundation or wood would go up. The Commission discussed their concern with no protection and expenses. Attorney Petrella said that the developers were willing to say in the document that they won't sell, or even offer to sell until all improvements are complete or bonded.

**Motion** was made by Alice Kelly, **seconded** by Douglas Sienna to table Application #10-63: Restrictive Covenant at "Woodside Estates" Subdivision until all appropriate documents. All in Favor. *Motion Passed.*

**11. Communications:** None

**12. Commissioners' Comments:**

a. Discuss Staff Responsibilities

Mrs. Kelly discussed the need for an organizational chart. Chairman Demetriades will draft a letter requesting the Human Resources department provide a chart and responsibilities. The Commission will follow-up.

b. Discuss subdivision "Restrictive Covenant" process.

Chairman Demetriades discussed that this is something the Town may not really want.

Mr. Sienna gave an example of open space projects and did it get transferred. The Commission

discussed various projects and what happens. Mrs. Kelly recommended we get a seminar by Attorney Byrnes regarding “Restrictive Covenants”. Mrs. Kelly felt that the Commission needs to do more on the planning side, that all they do is on the zoning side. Chairman Demetriades commented that more guidelines are needed on what to look for in terms of open space, etc.

c. Charter Revision

Mr. Faienza informed the Commission that he is on the Charter Revision Commission and that there will be a public hearing on Wednesday, September 29, 2010 in Room 224 and that members could forward their comments to him.

d. Chairman Demetriades asked Town Planner Minor to forward a copy of the road specifications to him.

**13. Approval of Minutes:**

a. September 7, 2010

**Motion** was made by Douglas Sienna, **seconded** by Joseph Garafalo to approve the September 7, 2010 minutes. All were in Favor. *Motion Passed.*

**14. Adjourn**

The meeting was adjourned by general consent at 10:35pm.

Respectfully Submitted,

Jennifer L. Donohue  
Clerk