



Town of Cromwell Planning and Zoning Commission

REGULAR MEETING
7:00 P.M. TUESDAY, DECEMBER 1, 2009
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET

MINUTES AND RECORD OF VOTES

Present: Nicholas Demetriades, Vincent Faienza, Michael Cannata, Alice Kelly, Joseph Garafalo, Tom Madden (arrival 7:12pm), Thomas O'Neill, Doug Sienna, Peter Keithan, and Alternate Fred Hayward

Also Present: Town Planner Craig Minor and BOS Liaison Anthony Varricchio, Sr.

Absent: Alternate Linda Duren

1. Call to Order

The meeting was called to order at 7:03pm. by Chairman Demetriades presiding.

2. Roll Call

The presence of the above members was noted

3. Seating of Alternates

Motion was made by Doug Sienna, **seconded** by Alice Kelly to seat Fred Hayward. All were in Favor. *Motion Passed.*

4. Approval of Agenda

Addition under New Business

10a. Use Permit (Roadside Stand) at 82 Court Street. Mark Langton, applicant; Cromwell Fire District, owner.

Motion was made by Peter Keithan, **seconded** by Alice Kelly to approve the agenda with the addition. All were in favor. *Motion Passed.*

Motion was made by Alice Kelly, **seconded** by Peter Keithan to move item 10a prior to Old Business. All were in Favor. *Motion Passed.*

5. Public Comments

Michelle Ceppaglia of 113 Country Squire Drive remarked that the Association would like a reasonable warranty on the landscaping. The warranty assumes the plantings would be installed by the spring. Ms Ceppaglia was referring to the December 1, 2009 letter given to the Commission. Chairman Demetriades explained that she would be able to speak on this item during Old Business.

6. Development Compliance Officer Report:

a. Activity Report –No Action.

b. Status of Outstanding Permits

Mrs. Kelly stated that it was just received tonight and that she would review it and submit her comments.

c. Performance Bond Release –No Action.

7. Town Planner Report:

a. Performance Bond Reductions and Releases: none.

b. Public Hearings to be Scheduled:

1. Application #09-75: Special Permit (Religious Institution) at 40 Country Squire Drive. Bible Baptist Church, applicant; Premier Building and Development Inc, owner.

Town Planner Mr. Minor explained that the previous application had been withdrawn and that this was a new location.

Motion was made by Alice Kelly, **seconded** by Vincent Faienza to schedule the public hearing for Application #09-75: Special Permit (Religious Institution) at 40 Country Squire Drive for January 5, 2010. All were in Favor. *Motion Passed.*

Mr. Snow asked what items that Commission might look for. The Commission said they would look at parking, what types of operations, what days of operation, what times of operation, who would be on-site, and the distance to the nearest package store.

Mr. Madden arrived at 7:12pm.

c. "Incentive Housing Zone" technical assistance grant

Mr. Minor reminded the Commission that the amount of grant funds available has been reduced, so the project has to be revised. He reviewed the application and felt the monies could be used to hire a consultant to look at the data and demographics. After that we could look at what other Towns have done in terms of adopting regulations that are ahead of Cromwell in the process.

Motion was made by Alice Kelly, **seconded** by Doug Sienna to forward "Incentive Housing Zone" technical assistance grant to the Board of Selectman for approval. (Approved, Demetriades, Faienza, Cannata, Kelly, Garafalo, O'Neill, Sienna, Keithan. Opposed, Hayward) *Motion Passed.*

8. Public Hearing and Possible Action: none

10. New Business:

a. Use Permit (Roadside Stand) at 82 Court Street. Mark Langton, applicant; Cromwell Fire District, owner

Mark Langton of 5 Parkview Dr explained that the Fire Department is selling tress and wreaths on the weekends throughout the holiday season.

Motion was made by Peter Keithan, **seconded** by Joseph Garafalo to approve the Use Permit (Roadside Stand) at 82 Court Street. All were in Favor. *Motion Passed.*

Many members of the Commission wished them luck in selling all the tress.

9. Old Business:

a. Application #09-61: Modification of Approved Site Plan ("Cobblestone Plaza") at 72 Berlin Road. Cobblestone Associates LLC, owner/applicant.

Attorney Joseph Williams representing the applicant explained that they have reached an agreement with the Country Squire II Condo Association on the landscaping and screening. Attorney Williams described the PVC fencing, trees, and adjusting the dumpster area. Attorney Williams gave copies of the landscape plan to the Commission. Attorney Williams addressed that Mr. Minor had commented on wanting clarification on the phasing of the work and provided to the Commission new plans with updated wording. The Commission reviewed the new plans provided.

The Commission discussed the Jersey barriers at the bottom of the riprap slope and received clarification by reviewing the plans.

Mr. Hayward asked for clarification of some of the plant material. Ms. Aldridge the landscape architect clarified the height and widths of the choices of material and explained that they planned on enhancing the soil. There was some discussion of other plant choices.

Attorney Timothy Fitzgerald, for the condo association, reviewed his November 25, 2009 letter to the Commission and how they arrived at the December 1, 2000 letter. Attorney Fitzgerald felt that an easement agreement was needed and maybe some sort of escrow fund to protect the condo association if the landscape plants don't last. Mr. Minor does not strongly recommended against any approval that is beyond an applicant's ability to comply with, such as an approval based on a third party. There was some discussion on the fact that all the details have not been worked out and what the best option was. Attorney Williams discussed the consent and a performance bond for the plantings. Mr. Minor discussed a way to solve the issue was to include

the December 1, 2009 letter, the screening plan and a performance bond in the approval motion. It was noted that the screening plan did not show the new post & beam section and would need to be updated.

Mrs. Kelly asked about private property and permissions. Ms Aldridge described the fencing. Mr. Cannata asked if the plantings could be over planted and than pulled out to give some immediate screening. Ms Aldridge explained how the plants would spread out with the fencing. Mr. Hayward agreed that over planting would not be a good idea for the long run due to the health of the plants.

Mr. Minor presented Town Engineer Joseph Mazurek's email dated December 1, 2009 and reviewed items 1-3. Mr. Cannata asked about the run-off of the slope. Attorney Williams asked that they continue to work with Mr. Mazurek on resolving the items to his satisfaction.

Jennifer Usher of BL Engineering described the stormwater collection and design and the reasoning behind it.

There was some discussion of item 4. Ms Usher explained that they were going to be placing curbing and redirecting the water down to a new catch basin.

The Commission discussed the December 1 letter as inclusion for approval.

Mrs. Kelly asked whether it was Dr. Welti or B& L who designed the slope. Ms Usher said B & L designed the slope with Welti's recommendations.

Chairman Demetriades asked that the December 1, 2009 condo association letter be put into record.

Mr. Madden remarked that it was unnerving when engineers don't agree on a concept. Mr. Madden ask that the applicant do what the Town Engineer requests. Mr. Hayward asked if the condo association was happy with the plan. Mr. Garafalo asked how long this process was going to take.

Chairman Demetriades called a recess at 8:24pm.

Chairman Demetriades called the meeting back to order at 8:31pm.

Ms Usher explained that they would like to construct and stabilize the site as soon as possible and move this along. Mr. Faienza felt lots of progress has been made and would like it moved forward as quickly as possible. Mr. Faienza felt the stabilization of the wall was a concern as well and would like to see the engineers and attorneys continue to work on it. Mr. Cannata had additional conditions he would like to add. Mrs. Kelly had a concern with the greenbelt buffer and read from the regulations. Mrs. Kelly felt strongly that there should be a buffer. Mr. Sienna

felt that a jersey barrier was not a stable bottom. Ms Usher stated this was a cleaner way to end the slope. Mr. Sienna remarked that he was not an engineer but felt that pressure was going to push it. Mr. Snow explained that at one point there was nothing on the bottom and this was one of the options. Mr. Minor pointed out that this was one of Mr. Mazurek's concerns as well. Mr. Sienna would be satisfied, if the issue is resolved with Mr. Mazurek. Mr. Keithan felt that this has moved along, but did not agree with all the items. Mr. Keithan would be watching. Mr. Demetriades had concerns with the detention pond.

Chairman Demetriades reviewed the conditional items for approval:

Item A was to address all items in the Town Engineer's December 1, 2009 email;

Item B was to address all items in the Town Planner's December 1, 2009 memo;

Item C was 16 points in Alice Kelly's comments;

Item D was Easement concerns for the condo and filed with the Town and Landscape guarantee and Compliance with the December 1, 2009 letter from the Condo Association;

Item E was Permanent underground drainage with 6 months, 5-year cash maintenance bond for the slope and drainage systems, the interest to generate a fund to inspect the slope monthly or bi-monthly for 5 years after completion, "Shot-creteting" behind CVS by June 2010, stone to CON-DOT specifications, and accepting planting plan and installation inspected;

Mr. Snow explained that the underground system could affect the daycare traffic. There was some discussion on the safe way to do this. Mr. Cannata felt it could be handled and solved by an engineer.

Attorney Williams discussed Mrs. Kelly's comments and clarified that they came out of various plans. Attorney Williams asked that the stamped plan be followed with the ongoing supervision.

It was discussed that point 16 could be agreed on. Point 15 regarded a fence around the Liberty Bank site to protect the area. Mr. Snow discussed the fencing that was currently there. Chairman Demetriades asked for clarification of points 1-14. Mr. Minor explained that point 11 could not be done and it was discussed that point 14 should be deleted.

The Commission discussed a failure safeguard. Mr. Minor felt that the staff could inspect the slope for problems. Mr. Cannata wanted Mr. Mazurek to tell him that.

The Commission discussed the detention basin. Attorney Williams suggested a time limit on the temporary basin such as 3 years. Mr. Faienza suggested a bond if not completed.

Mrs. Kelly asked Ms Usher for clarification on the drainage. Ms Usher described and clarified with Mrs. Kelly. Mr. Minor asked for clarification on the water quality concern. Ms Usher explained that the extra capacity makes up for the quality and pointed out that the plans provided a description with the calculations.

Mr. Cannata remarked that the economy is not the Commission's concern and that he felt if 80% of the project is completed than 80% should be complete.

Chairman Demetriades asked the Commission members how many would be agreeable to an interim in structure. O'Neill, Garafalo, Faienza, and Keithan. Chairman Demetriades asked how many would like a permanent structure. Hayward, Demetriades, Cannata, Kelly, and Sienna. The consensus was of the Commission was to see a permanent structure.

The Commission discussed letter of credits and bonds and if Mr. Mazurek was going to be comfortable with on-going inspections after the wall was completed. The Commission contemplated whether the applicant should pay for inspections. The Commission felt that inspections should be quarterly for 2 years and than bi-annually for the next 3 years and have the reports submitted to the Town Engineer.

Mr. Snow asked the Commission to reconsider the temporary basin. Mrs. Kelly asked for clarification. Mr. Snow discussed the changes in the project. Mr. Sienna asked if the cost of a permanent structure was about \$150,000 to \$200,000 what was a temporary structure? Mr. Snow said it was about \$15,000 to \$20,000.

Chairman Demetriades asked if Mr. Minor could take care of bonding.

Mr. Snow said the "shot-crete" would be done and that the Con-Dot specifications are in all the plans, as well as the landscaping.

The letter of credit for the inspection and reports to the Town Engineer would have to be determined.

Mr. Faienza asked that the temporary basin be reconsidered and give him 24 months to completed the permanent structure. Mr. Faienza expressed concern with the Town being jeopardized if the funds were not available for the project. Mr. Demetriades said he might be willing to reconsider with a timeline of an 18-month cap. Mr. Cannata did not want to reconsider the option and wanted the permanent structure.

Chairman Demetriades asked who was favorable to allowing the waiver of the greenbelt buffer. The Commission discussed the buffer and the potential of a wall being built from the bottom. Mr. Snow discussed why this was not feasible. Mrs. Kelly and Mr. Keithan were not favorable to allowing the waiver of the buffer. Mrs. Kelly wanted it clear that a precedent could not be set that you can destroy something and than come in and ask for a waiver.

Mr. Cannata asked what the cost of the slope was going to be. Mr. Snow said it was going to be about \$125,000.

Mr. Minor stated that at all times the principles of our zoning regulations are to be followed.

Chairman Demetriades called a recess at 9:48pm.

Chairman Demetriades called the meeting back to order at 9:50pm.

Chairman Demetriades clarified point 8 on Mrs. Kelly's comments. It was stated that point 11 and 16 were removed and that on point 13 it should state Dr. Welti Associates and remove the last sentence. Points 1 through 10 were to remain intact.

Attorney Williams objected to Item C and the fact that it was picked and chosen from specific documents. Mrs. Kelly asked that Dr. Welti look at it and clarify. Attorney Williams, the Commission and Mr. Minor discussed the many points, provided they don't conflict with the applicant's engineer's finalized plans and documents.

Mr. Sienna confirmed that the Jersey barrier at the bottom of the slope would be resolved. Mr. Minor explained that would be addressed through the condition of Mr. Mazurek's letter.

Motion as made by Doug Sienna, **seconded** by Alice Kelly to approve Application #09-61: Modification of Approved Site Plan ("Cobblestone Plaza") at 72 Berlin Road with conditions:

1. The Applicant shall revise the site plans as necessary to address the comments contained in the email from Town Engineer Joseph Mazurek to Town Planner Craig Minor dated December 1, 2009;
2. The Applicant shall revise the site plans, submit performance bonds, and submit a construction phasing plan as necessary to address the comments contained in the memo from Town Planner Craig Minor to the Planning and Zoning Commission dated December 1, 2009;
3. The Applicant shall revise the site plans as necessary to address Items 1-11, 13 and 15 in Commissioner Alice Kelly's list of sixteen items, provided they do not conflict with anything shown on the final set of site plans prepared by the Applicant;
4. The Applicant shall revise the site plans and submit a performance bond as necessary to address the comments contained in the letter from Country Squire II Condo Association to Chairman Nicholas Demetriades dated December 1, 2009;
5. The greenbelt buffer requirements of Article 11.1.d.6.a. are hereby waived in accordance with Article 11.1.e, with the stipulation that the Applicants shall revise the site plans as necessary to address the comments contained in the letter from Country Squire II Condo Association to Chairman Nicholas Demetriades dated December 1, 2009 and the Applicant shall provide the Town Planner with a copy of the fully-executed agreement between the Applicant and Country Squire II Condo Association related to the improvements at Country Squire II;

6. The Temporary/Intermediate Above-Ground Detention Basin shown on Sheet IGD-1 dated 11/11/09 is approved, with the following stipulations:

a. The Applicant shall post a performance bond in an amount approved by the Planning and Zoning Commission for the Underground Storm Water System shown on Sheet GD-1 dated 11/25/09;

b. The Underground Storm Water System shall be completed not later than June 30, 2011;

c. The Applicant shall revise the site plans for the Above-Ground Detention Basin as necessary to satisfy the Town Engineer.

7. The Applicant shall post a performance bond for the construction of the riprap slope in an amount to be approved by the Planning and Zoning Commission;

8. The Applicant shall post a maintenance bond for the riprap slope in an amount to be approved by the Planning and Zoning Commission, to be in place for a period of five years from the completion date;

9. The Applicant shall retain the firm of Dr. Clarence Welti P.E., P.C. to monitor the construction of the riprap slope and submit periodic reports to the Town Engineer in accordance with the "construction phasing plan" mentioned in the memo from Town Planner Craig Minor to the Planning and Zoning Commission dated December 1, 2009;

10. The Applicant shall retain the firm of Dr. Clarence Welti P.E., P.C. to conduct on-site inspections during the construction of the riprap slope in accordance with a construction phasing plan to be prepared by the Applicant and approved by the Planning and Zoning Commission; .

11. The Applicant shall retain the firm of Dr. Clarence Welti P.E., P.C. to conduct post-construction inspections of the riprap slope and submit periodic reports to the Town Engineer. The frequency of these inspections and reports shall be: quarterly for the first two years after completion of the riprap slope, and semi-annually for the next three years.

All were in Favor. *Motion Passed.*

Motion was made by Doug Sienna, **seconded** by Peter Keithan to approve an interim detention basin for until June 20, 2011 to the satisfaction of the Town Engineer. (Approved, Demetriades, Faienza, Kelly, Sienna, Garafalo, O'Neill, Hayward, Keithan. Opposed, Cannata) *Motion Passed.*

Mr. Cannata commented that this project has been allowed a lot of concessions; extensions,

modifications and he would not continue to support this.

11. Communications:

a. Email from Force 3 Communications re Pocket Wireless antennae on KMart sign at Cromwell Square.

Mr. Minor explained this was for information only. No action was taken.

12. Commissioners' Comments:

a. Zoning Regulations Committee Report
Mrs. Kelly informed the Commission that the next meeting would be December 9th.

13. Approval of Minutes:

a. November 17, 2009
Changes: Page 1 add Doug Sienna to the list of Present
Page 7 add to the Motion that the extension was until June 30, 2010.

Motion was made by Vincent Faienza, **seconded** by Joe Garafalo to approve with the changes the November 17, 2009 minutes. All were in Favor. *Motion Passed.*

14. Annual Meeting and Election of Officers:

a. Reading of By-laws Article VI
Motion was made by Tom O'Neill, **seconded** by Alice Kelly to wave the reading of the By-laws. All were in Favor. *Motion Passed.*

b. Election of Officers
Mrs. Kelly suggested to have the present officers remain if they wished to continue serving in their positions. Mr. O'Neill suggested having Mr. Sienna or someone else serve as Secretary.

Motion was made by Tom O'Neill, **seconded** by Alice Kelly to have the current Chair (Nicholas Demetriades) and Vice Chair (Vincent Faienza) and Doug Sienna as Secretary. All were in Favor. *Motion Passed.*

Motion was made by Vincent Faienza, **seconded** by Joseph Garafalo to have Alice Kelly continue to serve as Chair of the Regulations Sub-Committee. All were in Favor. *Motion Passed.*

c. Budget Discussion for FY 2010-2011

Mr. Minor discussed the upcoming budget with the Commission. Some details were discussed. Mrs. Kelly expressed concern with GIS and suggested allocating of the budget to cover this expense. Mr. Minor is going to come up with an appropriate number.

f. Midstate RPA appointment

Motion was made by Alice Kelly, **seconded** by Vincent Faienza to approve Al Diaz for Midstate RPA appointment. All were in Favor. *Motion Passed.*

g. Approval of Calendar of Meeting Dates for 2010

Motion was made by Alice Kelly, **seconded** by Doug Sienna to approve the 2010 Calendar of Meeting Dates. All were in Favor. *Motion Passed.*

15. Adjourn

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

Respectfully submitted,

Jennifer L. Donohue
Clerk