

**TOWN OF CROMWELL
PLANNING AND ZONING COMMISSION**

**REGULAR MEETING AND PUBLIC HEARING
7:00P.M. TUESDAY, MARCH 17, 2009
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET**

MINUTES

PRESENT: Chairman Nicholas Demetriades, Alice Kelly, Michael Cannata, Steven Donen, Thomas O'Neill, Barry McGuinness, Vincent Faienza and Alternates Ann Halibozek and Joseph Garafalo

ABSENT: Peter Keithan, Tom Madden and Alternate Linda Duren

ALSO PRESENT: Town Planner Craig Minor and BOS liaison Richard Waters

1. Call to Order: Chairman Demetriades called the meeting to order at 7:04p.m.

2. Roll Call: The above-mentioned members were introduced.

3. Seating of Alternates: Chairman Demetriades seated Alternates Ann Halibozek and Joseph Garafalo.

4. Approval of Agenda: A **motion** was made by Mrs. Kelly and **seconded** by Mr. O'Neill to add to the agenda the following item: 7.b.3. Application #09-22: Special Permit (construction in the Special Flood Hazard Area) at 269 Main Street. Corporate Row Associates LLC, owner/applicant and was *unanimously approved. Motion passed.*

A **motion** was made by Mrs. Kelly and **seconded** by Mr. O'Neill to add to the agenda the following item: 10.d. Letter from First Selectman Jeremy Shingleton dated March 16, 2009 requesting the Planning and Zoning Commission initiate a Zone Change for the 'Northern Tier' and was *unanimously approved. Motion passed.*

A **motion** was made by Mrs. Kelly and **seconded** by Mr. Garafalo to approve the agenda with the above addition and was *unanimously approved. Motion passed.*

5. Public Comments: Michael Nadeau, 17 Ledge Road, expressed concern that the conservation area in the Mountain View Estates plan isn't wide enough to allow deer egress and suggested that it would be better to be as wide as the planned conservation area in the Northbrook Estates plan.

Atty Sal Petrella, 558 Main Street, stated that item 10.b. Application #09-16 should be a re-subdivision because the original application was already approved. Atty Petrella requested a public hearing be scheduled for April 17, 2009.

A **motion** was made by Mrs. Kelly and **seconded** by Mr. Faienza to move item 10.b. Application #09-16 to 7.b.3. as part of the public hearings to be scheduled and to rename it as a re-subdivision application and was *unanimously approved. Motion passed.*

Rich Waters, 84 South Street, commented on the sale of the parcel on North Road to become part of the Mountain View Estates that it should not become part of a building lot. Mr. Waters stated that the land was sold for \$15,000 to the developers and that there should not be a house on that corner.

6. Development Compliance Officer Report: Mr. Curtin was not in attendance but his report was included in the agenda packet.

a. Activity Report: No votes were taken.

b. Status of Outstanding Permits: Mrs. Kelly suggested that a new report should be developed with the dates of outstanding permits and their expiration dates for easy reference. Mrs. Kelly also suggested a report on the dates of bonds. Chairman Demetriades asked Mrs. Kelly to create a draft of her comments for the next meeting.

7. Town Planner Report:

a. Performance Bond Reduction and Releases: No votes were taken.

b. Public Hearings to be Scheduled:

1. Application #09-18: Special Permit (Storage of Materials and Equipment in the Flood Plain District) at 201 Main Street. Economy Fuel Depot LLC, applicant; S&S Partners Inc, owner: Mr. Minor stated that there is a visibility issue with this parcel. Atty Richard Carella, representing the applicant, asked where would be the best location for the notice of a public hearing sign. Atty Carella suggested that the sign could be facing the road from a distance or just send certified letters to the abutting neighbors. Mr. Cannata asked about placement on the western side of the railroad tracks but Atty Carella stated that they would be in a depression about eighty-five feet from the road and suggested that the sign could be located on the south side of the driveway. Mr. Minor suggested placing a sign on the roof for better visibility and Atty Carella stated that it may still be below grade. Chairman Demetriades would like the sign placed as high as possible with as large letters as possible and letters sent to abutting neighbors.

A **motion** was made by Mrs. Kelly and **seconded** by Mr. Cannata to put the sign up using letters as large as possible and sending registered letters to the abutting neighbors and was *unanimously approved. Motion passed.*

A **motion** was made by Mr. Donen and **seconded** by Mrs. Kelly to schedule the public hearing on April 7, 2009 and was *unanimously approved. Motion passed.*

2. Zoning Amendment for “Welcome to Cromwell”-type signs: Mrs. Kelly feels that the regulation change should be done during the re-writing of the regulations. Mr. Donen asked when the regulations will be done and Mr. Minor stated six months to a year.

A **motion** was made by Mr. O’Neill and **seconded** by Mr. McGuiness to schedule the

public hearing on April 21, 2009 and was *approved by majority vote*. Mrs. Kelly *opposed*. *Motion passed*.

3. Application #09-22: Special Permit (Construction in the Special Flood Hazard Area) at 269 Main Street. Corporate Row Associates LLC, owner/applicant: A **motion** was made by Mr. Donen and **seconded** by Mr. McGuiness to schedule the public hearing on April 21, 2009 and was *unanimously approved*. *Motion passed*.

c. Draft “Water Pollution Control Plan” prepared by Cromwell WPCA staff: Mrs. Kelly reported that the WPCA just received information in their packet and it will be discussed at the April meeting. Mr. Minor explained that the State is mandating towns to develop a plan and that Rich Peck is currently working on it. The plan will not include services for three areas of town because they won't be developed (such as the state park by the river).

8. Public Hearing and Possible Action:

a. Application #09-08: Special Permit (oversized Garage) at 15 Beechwood Circle. Stephen J. Kuszek Jr., owner/applicant: Atty Julie Petrella, representing Mr. Kuszek, explained that the garage would be used to store specialty vehicles for personal use. The existing garage would be converted, one bay for living space and one bay for a heated workshop to work on his own vehicles. The breeze way connecting the house to the garage would also be enclosed. The garage would be 1525 sq ft total and the property is located at the end of a cul-de-sac. The prefab garage would be separate from the house with an unpaved path for access. Mr. Garafalo asked if Mr. Kuszek would be repairing other people's vehicles and Atty J. Petrella stated that the garage would be for personal vehicle repair only. Ms. Halibozek asked if there would be a foundation and Mr. Kuszek replied that he isn't sure yet, it would either be a foundation or a floating floor depending on the requirements for the prefab garage. Mrs. Kelly asked if there would be access for emergency vehicles to the garage and Atty Petrella stated that there would be an unpaved driveway for access. Mr. Kuszek also stated that in the rear of the property there is a ravine and that he has not intention of subdividing the property. Mr. Donen asked if any other options were explored. Atty J. Petrella reported that a variance from the Zoning Board of Appeals was denied. Mr. Donen asked about oil change disposal and Mr. Kuszek stated that he has a friend that uses it for heat. There were no public comments for this application.

A **motion** was made by Mrs. Kelly and **seconded** by Mr. Cannata to close the public hearing and was *unanimously approved*. *Motion passed*.

A **motion** was made by Mr. Faienza and **seconded** by Mrs. Kelly to approve Application #09-08 and was *unanimously approved*. *Motion passed*.

b. Application #09-10: Renewal of Home Occupation Permit (Candy Gift Baskets) at 10 Ryan Court. Eleanor Hojda, owner/applicant: Chester Hojda, 10

Ryan Court, stated that the gift basket business is located in their renovated basement. Mrs. Kelly asked if there is a sign outside advertising the business. Mr. Hojda stated the business is promoted online and by word of mouth. Ms. Halibozek asked if a food permit is required. Mr. Minor stated that if food is being made, a permit is required. Mr. Hojda stated that the baskets are a combination of packaged food and items such as chocolate dipped pretzels. Mr. Minor advised Mr. Hojda that he should check with the Health Director. There were no public comments on this application. Mr. Minor stated that the Zoning Enforcement Officer didn't receive any complaints.

A **motion** was made by Mrs. Halibozek and **seconded** by Mr. Faienza to close the public hearing and was *unanimously approved. Motion passed.*

A **motion** was made by Mrs. Halibozek and **seconded** by Mr. McGuiness to approve Application #09-10 with the condition that the flood permit be obtained if the Health Director deems it necessary within the time frame and was *unanimously approved. Motion passed.*

c. Application #09-11: Renewal of Home Occupation Permit (Catering Services) at 112 West Street. Robert G. Greenberg, owner/applicant: Robert Greenberg, 112 West Street, owner of Café on the Run stated that he does have a food permit. Mrs. Kelly asked if renewal applications were necessary and Mr. Minor stated that the renewal process is new. Mrs. Kelly stated that she would like to have the applicants fill out a renewal application. There were no public comments on this application. Mr. Minor stated that the Zoning Enforcement Officer didn't receive any complaints.

A **motion** was made by Ms. Halibozek and **seconded** by Mrs. Kelly to close the public hearing and was *unanimously approved. Motion passed.*

A **motion** was made by Mr. Cannata and **seconded** by Ms. Halibozek to approve Application #09-11 and was *unanimously approved. Motion passed.*

d. Application #09-12: Renewal of Home Occupation Permit (Psychiatric Services) at 372 Main Street. Drs. James and Joan Green, owner/applicant: Joan Green, 372 Main Street, stated that she and her husband have a private psychiatrist/psychologist practice. Ms. Halibozek asked if ADA guidelines for a second floor business would apply. Mr. Minor stated that the building department has that information. Mr. Cannata stated that a business must meet certain requirements before the ADA guidelines must be enforced. There were no public comments on this application. Mr. Minor stated that the Zoning Enforcement Officer didn't receive any complaints.

A **motion** was made by Mr. Donen and **seconded** by Ms. Halibozek to close the public hearing and was *unanimously approved. Motion passed.*

A **motion** was made by Mrs. Kelly and **seconded** by Mr. Faienza to approve Application #09-12 and was *unanimously approved. Motion passed.*

9. Old Business:

a. Application #09-04: Use Permit Application (Storage of Building

Materials) at 45 Commerce Drive. Viola Lawn Service, applicant; Brothers Properties LLC, owner: This item was tabled by unanimous decision.

A **motion** was made by Mr. Cannata and **seconded** by Mr. Faienza to remove from table and was *unanimously approved. Motion passed.*

Atty S. Petrella submitted a photo of a six foot stockade fence that the applicant plans to use for screening. The fence will surround the area on the east and north and open via a gate, and the west and south sides would have a silt fence. Ms. Halibozek asked if a wetland permit is required. Mr. Minor stated that the applicant needs to find out if they need the permit. Atty S. Petrella stated that the same time of activity is occurring at the transfer station. Ms. Halibozek asked if this activity was part of the original application. Atty S. Petrella state that is wasn't but that he feels that the activity isn't regulated by the wetlands agency.

A **motion** was made by Mrs. Kelly and **seconded** by Mr. Faienza to approve the application with the fencing and placement as shown with silt fence in the rear and that the site plan was received and was *unanimously approved. Motion passed.*

Ms. Halibozek would like a review by the Wetlands Enforcement Officer to determine if a permit is needed. Mr. Faienza would have like the site plan and other information in the agenda packet for review. Mr. Minor will forward the information to Mr. Curtin and will cc P&Z.

b. Application #09-06: Conservation Subdivision (“Mountain View Estates”)
at 100 North Road and Ledge Road. Reed Builders LLC, applicant; Estate of John C. Masserio and Janice Piccoli, owner: Jim Cassidy, Engineer with Hallisey, Pearson and Cassidy, described the fifteen lot open space subdivision. There will be an eight hundred and fifty foot road ending with a cul-de-sac and three sanitary laterals, two to service the homes and one will connect to a forced main. There will be a forty-six foot arch crossing accommodating the road, water, electric and cable utilities and a retaining wall. The arch will be constructed of eight precast steel sections of four feet. Atty Sal Petrella stated that Sewer, Conservation special permit, IWWA lot line amendment and permit have all been approved. Atty S. Petrella addressed earlier comments by stating that there is nothing in the regulations that requires addressing deer crossing and that both Wendy Goodfriend and Ed Pawlak stated that the planned deer crossing is sufficient and that the deer may use the road instead. Atty S. Petrella also stated that the lot bought from the town was .6 acres, not sufficient for a building lot, and that it was appraised at about \$10,000. Currently, there are negotiations with the Middlesex Land Trust for the conservation parcel and that they walked the site on March 11, 2009 and will vote on the proposal on April 7, 2009. Atty S. Petrella asked that as part of the approval a condition be added to include the land deeded to either the Middlesex Land Trust or Berlin Land Trust. Atty S. Petrella also stated that he is considering creating a Cromwell Land Trust. Mr. Minor stated that sidewalks need to be addressed. Atty S. Petrella stated that the applicant has agreed to install sidewalks. Mr. Minor stated that Mr. Cassidy's comments were received today at 3:30p.m. Mr. Donen stated that the

commission depends on the town planner to review applications, make comments and get staff approval and that it wouldn't be unreasonable to table this item until the next meeting. Mr. Cassidy stated that the revised plans were submitted and discussed with Mr. Mazurek. Mr. Minor stated that there was no report received from Mr. Mazurek and that it is important to maintain a paper trail. Mr. Donen asked if there will be sidewalks and if the buffer will be a problem with rear lot #4 because of the proximity to a major highway. Mr. Cassidy confirmed that sidewalks will be installed and that there is an existing buffer of evergreens and a berm along Rt 9 and that buyers will be aware they are near the highway. Homeowners further away are aware of the highway noise. Mr. Minor stated that the police and fire department don't have a problem with the location of lot #4. Mr. Cannata asked if there would be a hardship created if this was tabled and Atty S. Petrella stated it could result in the loss of one sale. Mr. Minor is okay with P&Z's approval subject to staff review and addressing any concerns of himself or Mr. Mazurek.

A **motion** was made by Mr. Donen and **seconded** by Mrs. Kelly to table this application. Ms. Halibozek, Mrs. Kelly, Mr. Donen and Chairman Demetriades voted in favor. Mr. Cannata, Mr. Faienza, Mr. O'Neill, Mr. McGuinness and Mr. Garafalo were opposed. *Motion failed.*

A **motion** was made by Mr. Cannata and **seconded** by Mr. McGuinness to approve Application #09-06 (1) subject to Mr. Minor's and staff review and satisfaction of the plans, (2) that the open space be deeded to a land trust and (3) the sidewalks are constructed. Mr. Cannata, Mr. Faienza, Mr. O'Neill, Mr. McGuinness and Mr. Garafalo voted in favor. Mr. Donen and Ms. Halibozek were opposed. Chairman Demetriades and Mrs. Kelly abstained. *Motion passed.*

10. New Business:

a. Application #09-14: Site Plan Approval (Liberty Bank) at 72 Berlin Road ("Cobblestone Plaza"). Cobblestone Associates LLC, owner/applicant: Rohan Freeman, BL Companies representing Pat Snow, asked for a modification on the previous plan. CVS has been constructed and the next building is for Liberty Bank. The banks pad is reduced from 4,490 sq ft to 2,800 sq ft and will have three drive-thru's with one by-pass lane. The plans for the utilities, traffic and drainage haven't changed. One hydrant will be placed on the property and they are in negotiations with the owner of the CVS parcel to meet their parking needs. The sewer easement has been granted and two handicapped spaces have been reconfigured. Mr. Cannata asked if the fire chief was aware of the hydrant's location. Mr. Freeman stated that the new location is the chief's preferred location and it will be installed when the work starts on the bank. Mr. Freeman also stated that there is a hydrant currently at CVS. Mrs. Kelly asked about the parking spaces and Mr. Donen asked if the sale of the CVS site will affect the maintenance of the site. Mr. Snow stated that the management services is in place for the whole site. Mr. Snow stated that the three drive up lanes will be for two tellers and one ATM. There will be three handicap spaces at the bank. Mrs. Kelly stated that the loose stone requirement still hasn't been addressed and suggests using a wrap for the entire stone in case of falling rocks. Mr. Snow stated that a fence was installed behind

CVS. Chairman Demetriades stated he is concerned about the wrap. Mr. Snow stated that an engineer visits quarterly to inspect and clean and last visited in September. Mrs. Kelly believes that there are loose rocks that need to be cleaned off. Mr. Snow will submit a report confirming that safety concerns are being met. Mrs. Kelly asked about a sewer easement. Mr. Minor is not sure if it is needed.

A **motion** was made by Mr. Donen and **seconded** by Mrs. Kelly to approve Application #09-14 and was *unanimously approved. Motion passed.*

b. Application #09-16: Subdivision Approval (“North Woods Estates” Conservation Subdivision) at 123 and 141 North Road. Norman and Kenneth Nadeau, owner/applicant: A **motion** was made by Mr. O’Neill and **seconded** by Mr. McGuinness to schedule a public hearing for April 21, 2009 for the re-subdivision of this parcel and was *unanimously approved. Motion passed.*

c. Application #09-17: Use Permit (Retail Nursery) at 24 Shunpike Road. Joshua Eddinger, applicant; Mattabeset Reality LLC, owner: Joshua Eddinger described the project for a live plant retail center located on the former Saw Mill Pub site next to Dunkin Donuts. Temporary structures would be used to house the plants, unprocessed stone would be placed on the driving surface and above ground planters would be used for landscaping. Mr. Cannata asked if any fertilizers or pesticides would be sold. Mr. Eddinger stated that only live goods (plants) would be sold along with potting soil and mulch. Mr. Cannata asked about parking and Mr. Eddinger stated that spaces would be striped and curbing would be used. Chairman Eddinger asked if advertising signs would be used and Mr. Eddinger stated that signs still need to be worked out. Mrs. Kelly asked if the entrance would be from Rt 3 and Mr. Eddinger stated it would be a dirt entrance, cleaned up with processed stone and he will be using the parking plan previously approved. Mr. Donen asked if he knew what the long term use of the site is and Mr. Eddinger stated that this use is an interim solution, not the ideal use. Ms. Halibozek asked about the hours: Weekends 9-5 and Weekdays 9-6. There will be no electricity on site. Mr. Waters asked if this would hinder the canoe launch. Mr. Minor stated that according to the plan, it would not.

A **motion** was made by Mr. Cannata and **seconded** by Mr. Garafalo to approve Application #09-17 with the following conditions: (1) no fertilizers or pesticides are stored onsite, (2) the signs as required by the Police Chief are put in place and (3) work is done in accordance with the site plan and was *unanimously approved. Motion passed.*

d. Letter from First Selectman Jeremy Shingleton dated March 16, 2009 requesting the Planning and Zoning Commission initiate a Zone Change for the “Northern Tier”: Mr. Minor explained that ‘Planned Office’ would limit the business type allowed in the area and that the area indicated on the map would make some of the existing businesses non-conforming. Mrs. Kelly suggested asking Jason Vincent of Planimetrics for direction on this issue. Mr. Minor will relay to Mr. Shingleton that the commission agrees with the basic idea but would like to address more specific areas and get comments from town staff. The commission would also like Mr. Shingleton to

identify targeted areas. Mr. Cannata also requested a list of the current businesses, their locations and those that would become nonconforming. Mr. Waters stated that there is a lot of property involved.

11. Communications: No votes were taken.

12. Commissioners' Comments:

a. Zoning Regulations Committee Report: Mrs. Kelly reported that the next meeting is at the end of March and that they were invited to the Farmland Preservation Committee meeting at the end of April.

b. Update on Town Budget: Mr. Faienza stated that there were many comments in favor of retaining a town planner made at the recent Town Budget hearing. P&Z submitted their resolution and in conclusion they fought hard to maintain a town planner position but there will be a pay cut. Ms. Halibozek asked if there could have been a violation of FOI rules because the resolution wasn't on the agenda of the last P&Z meeting. Mr. Donen stated that there wasn't a violation because items can be added to the agenda with appropriate approval. Mr. Donen stated that he was disappointed by the majority of the Board of Selectman's lack of knowledge of the work done by P&Z and stated that it is important for the commission to receive the Town Planner's report in the P&Z agenda packet for guidance and that P&Z needs to go to the Board of Finance. Mrs. Kelly suggests improving the report given by the liaison to the Board of Selectmen by including more detailed information.

13. Approval of Minutes:

a. March 3, 2009: A **motion** was made by Mrs. Kelly and **seconded** by Mr. Garafalo to approve the minutes of March 3, 2009 and was *unanimously approved*. *Motion passed.*

14: Adjourn: Chairman Demetriades adjourned the meeting at 10:53p.m.

Respectfully submitted,

Catherine Potter
Clerk