

**TOWN OF CROMWELL  
PLANNING AND ZONING COMMISSION**

**REGULAR MEETING AND PUBLIC HEARING  
7:00 P.M. TUESDAY, APRIL 21, 2009  
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET**

**MINTUES AND RECORD OF VOTES**

Present: Michael Cannata, Vincent Faienza, Alice Kelly, Thomas O'Neill, Tom Madden, Steve Donen, Joseph Garafalo, and Alternate Ann Halibozek

Absent: Nicholas Demetriades, Peter Keithan, and Alternate Linda Duren, and BOS Liaison Richard Waters

**1. Call to Order**

The meeting was called to order at 7:05 pm. by Vice-Chairman Faienza, presiding

**2. Roll Call**

The presence of the above members was noted.

**3. Seating of Alternates**

Alternate Ann Halibozek was seated.

**4. Approval of Agenda**

**Motion** was made by Alice Kelly, **seconded** by Thomas Madden to approve the agenda. All were in Favor. *Motion Passes*

Mr. Donen expressed concern regarding item 8d. on the agenda and whether it was properly before the Commission due to the fee not being paid. Mr. Minor recommended that no final action should be taken before the Board of Selectman resolves the fee issue. Mr. Minor also stated that the statutory clock was ticking and the application process should continue, but that the Commission always has the right to deny without prejudice if it feels an application is incomplete. He added that in his opinion the Commission should be sympathetic to their request since they paid \$12,000 for the first approval and these plans are not very different. Mrs. Kelly agreed with the Town Planner. Mr. Donen withdrew his concern.

**5. Public Comments**

**Jim Cassidy of Hallisey, Pierson and Cassidy** expressed concern of where the bonding figure came from for Mountain View Estates. He was told that he would have the opportunity to discuss this with the Commission later in the evening.

**Steve Bailey of 22 Chestnut Court** commented on the fact that the area of concern of

Willowbrook Road was much improved. Mr. Bailey also remarked on the item under Old Business and that he trusted that the Commission would plan wisely. Mr. Bailey also offered his support of the Community Garden.

**6. Development Compliance Officer Report:**

a. Activity Report

Mr. Curtin, Zoning Enforcement Officer, informed the Commission that the Witch's Brew sign had been removed. The issues with the garbage at Kmart were continuing to be worked on. The Volkswagens on Main Street had been resolved and the dead trees at Walgreen have been resolved.

Mrs. Kelly commented on the lot cleanup on the end of Willowbrook Road but mentioned that the silt fences are falling down. Mrs. Kelly said the fences all the way up are also coming down as well.

Ms Halibozek asked about the status of the CVS wall. There was some discussion of the timing and the concerns of the rocks and wall.

b. Status of Outstanding Permits

No comments.

**7. Town Planner Report:**

a. Performance Bond Reductions and Releases:

1. Set Performance Bond Amount for "Mountain View Estates" subdivision at 100 North Road and Ledge Road.

Mr. Cassidy, Engineer for the applicant expressed concern for the numbers in Mr. Mazurek's spreadsheet. Mr. Minor noted that the sewer bond was included in the numbers and should not have been.

**Motion** was made by Alice Kelly, **seconded** by Thomas O'Neill to table set performance bond amount for "Mountain View Estates" subdivision at 100 North Road and Ledge Road. All were in Favor. *Motion Passes.*

b. Public Hearings to be Scheduled: None.

## 8. Public Hearing and Possible Action:

Thomas O'Neill read the legal notice into record.

a. 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. Continued from April 7, 2009.

**Motion** was made by Alice Kelly, **seconded** by Steve Donen to remove Application #09-19 from the table. All were in Favor. *Motion Passes.*

Attorney Richard Carella of Carella Law Offices, 203 Main Street Middletown commented that the text change had been published and the Commission would now be able to act on their application. Attorney Carella gave a brief description of the project and the installation of 3 tanks. A fire analysis report was submitted to Mr. Minor, which discussed their compliance with fire code. The applicant will be installing 2 tanks right now and the 3<sup>rd</sup> tank when an additional water source is confirmed by the Fire Chief and Fire Marshal. Attorney Carella felt that the project fit with Cromwell's POCD and balances development.

Vice-Chairman Faienza asked for public comment. There was none.

**Motion** was made Michael Cannata, **seconded** by Thomas Madden to close the Public Hearing. All were in Favor. *Motion Passes.*

**Motion** was made Alice Kelly, **seconded** by Steve Donen to approve Application #09-18: Special Permit (Storage of Materials and Equipment in the Flood Plain District) at 201 Main Street as recommended by the Town Planner with the following condition: (1) the third tank will not be installed until the Fire Chief is satisfied that adequate water control measures are met. All were in Favor. *Motion Passes.*

b. Application #09-18: Zoning Amendment (Sign Regulations). Cromwell Planning and Zoning Commission, applicant.

Fred Curtin, Zoning Enforcement Officer explained that this application was to support additional signage to promote the Town of Cromwell with an appropriate use permit authorized by Town Staff within 32 square feet.

Mr. Garafalo expressed concern with signs everywhere.

Vice-Chairman Faienza asked for public comment. There was none.

Mrs. Kelly was opposed to the change right now since the Commission was in the midst of redoing the regulations. Mrs. Kelly read from the POCD, which stressed that the signs be uniform and expressed that the Commission should wait. Ms Halibozek supported Mrs. Kelly's findings. Mr. Cannata asked for clarification. Mrs. Kelly explained that there are no set criteria for the signs. Mr. Minor suggested changing the wording to the regulation, which would require it to be uniform with existing signage. Mr. Minor stated that he received comments from the Regional Planning Agencies and they had no concerns.

**Motion** was made Michael Cannata, **seconded** by Joe Garafalo to close the public hearing for Application #09-18: Zoning Amendment (Sign Regulations). All were in Favor. *Motion Passes.*

Town Planner Craig Minor suggested some changes that might address the Commission's concerns. He suggested making it by approval of P&Z rather than staff, and requiring an application show that the style of the proposed signage is consistent with other similar signage.

**Motion** was made Alice Kelly, **seconded** by Ann Halibozek to approve Application #09-18: Zoning Amendment (Sign Regulations) with the following changes: (1) that the design match existing or proposed "Welcome to Cromwell" signage; (2) to be approved by the Commission, not the staff. All were in Favor. *Motion Passes.*

c. Application #09-22: Special Permit (Construction in the Special Flood Hazard Area) at 269 Main Street. Corporate Row Associates LLC, owner/applicant.

Jim Cassidy of Hallisey, Pierson, and Cassidy of 35 Coles brook Road Rocky Hill explained that this is an addition to the Delta Building Office building. Mr. Cassidy described the property and the reason they are seeking the special permit is that they are located in a special flood hazard area. Mr. Cassidy described the handicap access ramp. Mr. Cassidy reviewed how the building would meet the flood elevation, it would be concrete and pressure treated, described the utilities above on the roof, supplied by public water and utilizes the existing sewer and serviced by gas. Mr. Cassidy discussed the flood storage capacity and equal conveyance of flows due to the CT River and local brook. Mr. Cassidy described the flood control panels and their process.

Gary Dayharsh of Delta Building described the building and how it's design would be similar to the Viola building on South Street and reviewed the design of the ramp.

Vice-Chairman Faienza asked for public comments. There was none.

Mr. Minor commented that he did not receive comments from the Director of Development Services (the Town Engineer) regarding the flood design. Ms Halibozek pointed out the Mr. Mazurek did make a flood storage comment. Mr. Cassidy explained that they have worked with Mr. Mazurek on several projects in this area and they are sure they can work with Mr. Mazurek

on whatever is necessary. Mr. Minor suggests that with Mr. Mazurek out temporarily that it be approved with the condition that the Director of Developmental Services verifies that they are in compliance with the regulations, and with routine inspections as stated in the regulations.

**Motion** was made Michael Cannata, **seconded** by Joe Garafalo to close the public hearing for Application #09-22: Special Permit (Construction in the Special Flood Hazard Area) at 269 Main Street. All in Favor. *Motion Passes.*

**Motion** was made by Michael Cannata, **seconded** by Ann Halibozek to approve Application #09-22: Special Permit (Construction in the Special Flood Hazard Area) at 269 Main Street with the following conditions: (1) the Town Engineer review and find the site plans to be in compliance with Section 12; (2) the property shall be available for regular inspection by the Director of Developmental Services. All were in Favor. *Motion Passes.*

**7.a.1. Set Performance Bond Amount for "Mountain View Estates" subdivision at 100 North Road and Ledge Road**

**Motion** was made Steve Donen, **seconded** by Alice Kelly to remove set "Performance Bond Amount for "Mountain View Estates" subdivision at 100 North Road and Ledge Road" from the table. All were in Favor. *Motion Passes.*

Attorney Petrella discussed the large percentage difference in figures between his client and the Town Engineer. Attorney Petrella would like to come back in two weeks with contracts to show their numbers. There was some discussion on how to handle the situation with the Town Engineer out on leave. Attorney Petrella would like the bond approved and to come back after reviewing the numbers and maybe change the numbers in two weeks.

**Motion** was made Michael Cannata, **seconded** by Alice Kelly to set the performance bond for "Mountain View Estates" at \$681,035 with 95% LOC, and 5% cash. All were in Favor. *Motion Passes.*

**8.d. Application #09-16: Resubdivision Approval ("NorthWoods Estates" Conservation Subdivision) at 123 and 141 North Road. Norman and Kenneth Nadeau, owner/applicant.**

Attorney Salvatore Petrella representing the applicant explained that they asked for a waiver of the \$12,000 application fee due to the fact they are just making lot line changes but they did agree to pay fees based on the changes, as stated in their letter.

Attorney Petrella also discussed the outstanding storm water management issue. Attorney Petrella explained that there are several outstanding items such as they are requesting a waiver of the town's "Road Construction Specifications" from the Board of Selectmen for the two

temporary cul-de-sacs; and Inland Wetlands Agency approval of the parking spaces next to the trail. Attorney Petrella gave Mr. Minor copies of the certified letter receipts and stated that the signs had been posted properly on the property.

Attorney Petrella discussed the road length waiver for the temporary cul-de-sacs. Attorney Petrella mentioned the March 23, 2009 letter, comment letter April 21, 2009, the letter to Mr. Shingleton requesting to be on the BOS agenda, and the letter to waive the fees to Mr. Minor.

Mr. Cassidy described the subdivision and the conservation easements and that everything is the same as the previous submission. Mr. Cassidy explained that they have addressed the CWPCA, and Mr. Minor and Mr. Mazurek's comments.

Mr. Cassidy reviewed his responses to Mr. Mazurek's April 8<sup>th</sup> memo. Mr. Cassidy addressed comment 2a. and how the detention basin would now be the responsibility of the homeowner of Lot #12 rather than a Homeowner's Association.

Mr. Cassidy discussed several stream crossing issues resulting from the Town Engineer's recommended changes. Mr. Cassidy has not been able to resolve these issues due to the Town Engineer being out of the office for several weeks. Mr. Mazurek has requested a box culvert and Mr. Cassidy would like to use concrete. Mr. Cassidy addressed item g. and his concern with the width of one of the bridges and it affecting wetlands and creating a substantial increase in cost to the project.

Attorney Petrella provided a letter from CL& P that they have reviewed the project have no objection to the trail in their right-of-way.

Mr. Madden asked why Mr. Mazurek would want an increase in the height of the bridge. Mr. Cassidy explained that Mr. Mazurek was concerned with the height of the walls. There was some discussion on the walls and appearance.

Mr. Cassidy expressed his concern with additional costs on this project caused by the Town Engineer's preferred materials.

Mr. Donen asked several questions regarding the phases of the project. Mr. Donen asked about the concerns of the land-locked lots. Mr. Cassidy explained this is a private roadway as allowed in the zoning regulations. Mr. Donen expressed concern of the detention basin burden being put on one homeowner. There was some discussion of the maintenance of a basin and the avoidance of problems with it. Mrs. Kelly asked about the fund to be created to protect the interest in the basin. Attorney Petrella is going to be finding out more information about this.

Vice Chairman Faienza asked for public comments. There was none.

**Motion** was made Steve Donen, **seconded** by Thomas Madden to continue the public hearing on Application #09-16: Resubdivision Approval ("NorthWoods Estates" Conservation Subdivision) at 123 and 141 North Road to June 2, 2009. All were in Favor. *Motion Passes.*

Mr. Minor noted that this would go beyond the 35 days. Attorney Petrella stated that they were okay with this and that they would send a letter stating so.

Vice-Chairman Faienza called a recess at 9:20pm.

Vice-Chairman Faienza called back to order at 9:26pm.

**9. Old Business:**

a. Proposed Zone Change (Industrial to Planned Office) on Shunpike Road north of Coles Road intersection.

First Selectman Jeremy Shingleton was not present. No Action Taken.

**10. New Business:**

a. Application #09-23: Site Plan Approval (Addition to Existing Building) at 269 Main Street. Corporate Row Associates LLC, owner/applicant.

Jim Cassidy of Hallisey, Pierson, and Cassidy representing the applicant described the site and why at this point it does not need wetlands approval. Mr. Cassidy described the footprint of the building and the 28 non-conforming parking spaces. Mr. Cassidy reviewed his response to Mr. Mazurek's memo dated 3/31/09.

Mr. Cassidy discussed item #6, but the change would require a change in the curb cut, which would require them to go to Inland and Wetlands for approval to make changes. Mr. Cassidy described the landscape and the possibilities.

Gary Dayharsh of 269 Main Street explained that the same materials would be used on the addition, as to match the existing building.

Ms Halibozek expressed concern for animals getting in through the flood vents. Mr. Dayharsh explained that there are screens over them and they haven't had issues at the other building.

Mrs. Kelly asked about the trash containment area. Mr. Cassidy explained that it was near the loading zone and that it would be screened. Mrs. Kelly asked about lighting. Mr. Dayharsh

described the decorative lighting and explained it did not cross the street. Mr. Minor stated that a photometric plan needed to be submitted of the lights. Mr. Dayharsh said he would therefore eliminate the lights at this time and would submit a plan if lights were added.

Mr. Minor asked for clarification on how the applicants were addressing the insufficient parking. Mr. Dayharsh said he would eliminate the conference room. Mr. Minor asked, how would that be accomplished. Mr. Dayharsh said he would submit revised architectural plans showing no habitable area on that floor.

Mr. Cannata asked about the construction material stored in the back of the building. Mr. Dayharsh explained that most of it has been removed and the rest would be soon and that it won't be returning. It will be stored elsewhere.

**Motion** was made Michael Cannata, **seconded** by Thomas Madden to approve Application #09-23: Site Plan Approval (Addition to Existing Building) at 269 Main Street with the following conditions: (1) revised architectural plans showing no habitable area in the top floor; (2) no additional exterior. All in Favor. *Motion Passes.*

b. Application #09-29: Use Permit (Parks, Playground) for a community garden at Evergreen Hill Park on Willowbrook Road. First Selectman, applicant.

Fred Curtin, Zoning Enforcement Officer, representing the First Selectman explained the installation of the Community Garden and that it has received Inland Wetland Agency approval. Mr. Curtin described the site and location.

Mr. Faienza questioned what was to prevent pesticide pollution and what have other towns done to prevent this.

Mr. Garafalo asked if this activity is considered passive, so as not to jeopardize the grant activity. Mr. Minor said that when the grant was given this activity was okay and he was given a verbal approval, but he does not have anything in writing.

**Motion** was made Michael Cannata, **seconded** by Alice Kelly to approve Application #09-29: Use Permit (Parks, Playground) for a community garden at Evergreen Hill Park on Willowbrook Road. All were in Favor. *Motion Passes.*

**11. Communications**

Mr. Minor provided the Commission with a legal opinion from the Town Attorney regarding the Viola issue.

**12. Commissioners' Comments:**

a. Zoning Regulations Committee Report

Mrs. Kelly explained that a meeting was going to be held on Thursday and encouraged everyone's attendance.

b. Mrs. Kelly asked how Mr. Minor was coming with his reports. Mr. Minor said he is working on them and expected to have more time to continue his progress with them.

**13. Approval of Minutes:**

a. April 7, 2009

Corrections:

Page 8., 9<sup>th</sup> paragraph, Ms Halibozek stated she said that she felt something should be done.

Page 7, under Old Business, last paragraph, "personnel" should be "personal"

**Motion** was made Thomas Madden, **seconded** by Joe Garafalo to approve the minutes of the April 7, 2009 with changes All were in Favor. (Donen abstained)

*Motion Passes.*

**14. Adjourn**

The meeting was adjourned by general consent at 10:15pm.

Respectfully Submitted,

Jennifer L. Donohue  
Commission Clerk