



**TOWN OF CROMWELL
PLANNING AND ZONING COMMISSION
REGULAR MEETING
7:00 PM TUESDAY MAY 1, 2018
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET
MINUTES AND RECORD OF VOTES**

Present: Chairman Alice Kelly, Vice Chairman Michael Cannata, Chris Cambareri, Jeremy Floryan, Paul Cordone, Ken Slade, Ken Rozich, David Fitzgerald (alternate)

Absent: Brian Dufresne, Nicholas Demetriades, John Keithan (alternate)

Also Present: Director of Planning and Development Stuart Popper, Town Engineer Jon Harriman, Town Council Liaison James Demetriades, Development Compliance Officer Bruce Driska

1. Call To Order

The meeting was called to order by Chairman Kelly at 7:05 p.m.

2. Roll Call

The presence of the above members was noted.

3. Seating of Alternates

Michael Cannata made a motion to seat David Fitzgerald; Seconded by Ken Slade. *All in favor; motion passed.*

4. Approval of Agenda

Michael Cannata made a motion to amend the agenda under New Business Accept and Schedule Applications with Application #18-28 to be accepted tonight and heard at the May 15, 2018 meeting; Seconded by Ken Slade. *All in favor; motion passed.*

Michael Cannata made a motion to amend the agenda under New Business Accept and Schedule Applications with Application #18-29 to be accepted and heard at the June 5, 2018 meeting; Seconded by Paul Cordone. *All in favor; motion passed.*

Michael Cannata made a motion to accept the amended agenda; Seconded by Ken Slade. *All in favor; motion passed.*

5. Public Comments

There were no public comments at this time.

6. Development Compliance Officer

Mr. Driska referenced his report that was included with the agenda packet. There were no questions or comments from the Commission.

7. Town Planner Report:

Mr. Popper stated that ShopRite and the TPC had both received their respective OSTA permits and were beginning construction. 120 County Line Drive was still in the application process for their OSTA permit.

8. New Business: Accept and Schedule New Applications:

- a. Application #18-27: Request for a Special Permit under Section 3.3.4 of the Zoning Regulations to permit a restaurant with the accessory sale of alcoholic beverages at 35 Berlin Road. Kemal Cecunjanin is the Applicant and River Grace Plaza LLC is the Owner.

Michael Cannata made a motion to accept the application and to schedule it to be heard on June 5, 2018; Seconded by Jeremy Floryan. *All in favor; motion passed.*

- b. Application #18-28: Request for Site Plan Modification at 41 West Street. The Town of Cromwell is the Applicant and the Owner.

Michael Cannata made a motion to accept the application and schedule it to be heard on May 15, 2018. Seconded by Paul Cordone. *All in favor; motion passed.*

- c. Application #18-29: Request for a Special Permit under Section 4.2.R of the Zoning Regulations to permit transfer of materials and grading at 204 Main Street (area north of Frisbee Park). The Town of Cromwell is the Applicant and the Owner.

Michael Cannata made a motion to accept the application and to schedule it to be heard on June 5, 2018; Seconded by Ken Slade. *All in favor; motion passed.*

Michael Cannata asked about the scheduling of the work on the guardrails. Town Engineer Jon Harriman said that the DOT permits had been obtained and they were looking to schedule a subcontractor to do the work, possibly in June.

9. New Business:

- a. Application #18-16: Request for Site Plan Modification to install temporary office trailer at 1000 Corporate Row. GKN is the Applicant and BUHL Land East III LLC is the Owner.

Mr. Popper introduced the application, saying that the applicant was proposing to locate a temporary trailer in the rear yard, about ten feet from the property line, and they had already received Inland Wetlands approval as well as an eighteen month variance from the Zoning Board of Appeals. He showed the Commission a map with the location and parking area.

Nick Shah, Project Engineer, said that the trailer was necessary because they could not have outside consultants inside the main building due to security clearance reasons. The trailer would be brand new, approximately 24 by 60 feet in size, and hold up to twelve people.

Michael Cannata said that he did not have any concerns regarding the project as GKN has been a good corporate citizen to the Town of Cromwell.

Michael Cannata made a motion to approve Application #18-16: Request for Site Plan Modification to install temporary office trailer at 1000 Corporate Row; Seconded by Ken Slade. *All in favor; motion passed.*

- b. Application #18-17: Request for Site Plan Modification to install temporary facilities at 674 Main Street (gravel parking lot at the First Tee) PGA Tour Inc. is the Applicant and Eversource Energy is the Owner.

Nate Russell, project engineer with GZA, presented the application. He was proposing temporary facilities to accommodate the administration, pro shop, kitchen, and bathrooms, as well as relocating the existing tent. He reviewed the site location, which was the gravel parking lot at the First Tee. It would be serviced by electric and water, but not sewer, as the trailers had self-contained plumbing. He showed photos of the interior and exteriors of the trailers. He said that the bathroom trailer, with ADA compliant ramp, would remain on site for one year, but the tent and kitchen trailer removed by winter.

He reviewed the proposed schedule, with utility work beginning mid May, the trailers and tent set up the week of May 21, occupation by the week of June 4, and the removal of the trailers and site restoration by June 2019.

Chris Cambareri said he was confident in the applicant's ability to do the work being proposed. Mr. Popper said that there were no comments from the staff review. The trailers would be reviewed by the Health Department, Building Department, and Fire Marshal, as applicable.

Michael Cannata made a motion to approve Application #18-17: Request for Site Plan Modification to install temporary facilities at 674 Main Street (gravel parking lot at the First Tee); Seconded by Chris Cambareri. *All in favor; motion passed.*

10. Old Business:

- a. Application #18-06: Request for Site Plan Approval for the Planned Residence Development Zone District at 76 Field Road. Carrier Group, Inc. is the Applicant and the Owner.

Mr. Popper stated that this item is to be combined with the two public hearings.

11. Public Hearings:

- a. Application #18-13: Request for a Special Permit under Section 6.1 of the Zoning Regulations for the proposed substantial filling (18,000 cubic yards over a 5+ year period) at 76 Field Road, 59R Nooks Hill Road and 10 South Ridge Road. Carrier Group, Inc. is the Applicant and the Owner.
- b. Application #18-05: Request for a Special Permit under Section 8.7 of the Zoning Regulations for the proposed Planned Residence Development at 76 Field Road. (public hearing continued) Carrier Group, Inc. is the Applicant and the Owner.

Michael Cannata made a motion to open the public hearing; Seconded by Paul Cordone.
All in favor; motion passed.

Mr. Popper said that there been some correspondence regarding the issue of the restrictive covenant proposed by the Applicant. He read a letter he had received from Michael Camilleri, 14 Centerwood Drive, Cromwell, in which Mr. Camilleri suggested a number of changes, namely that the property be restricted from common interest ownership, that the abutting neighbors be named as beneficiaries of the covenant, that Section 3 be deleted in its entirety, and that the covenant inure to the benefit of the neighboring property owners.

Mr. Popper then read a response from Town Attorney Kari Olson dated April 30, 2018, in which she said that state law prohibits denying property owners rights based upon condo ownership, that she does not recommend giving personal emoluments to individual residents, and said that, in the future, any proposed requests to eliminate the restrictive covenant by the Town or Town Council would have to go through the proper processes and comply with the zoning regulations. Mr. Popper said that Attorney Olson's comments had been forwarded to Attorney Molloy and they would continue to work on revising the language.

Town Engineer Jon Harriman read his memo dated May 1, 2018, regarding his proposed conditions of approval: that prior to turning the stormwater management ponds over to the homeowner's association, an as-built survey be submitted to the Town, certifying that design capacities had been met, that prior to turning over the site drainage system to the HOA, all catch basins, manhole treatment devices and ponds be cleaned in accordance with the O&M plan, that proposed signage be placed along Field Road to advise motorists of truck traffic entering the roadway, and that a copy of the final soil management plan be provided to the Engineering department, as well as follow reports and inspections.

Mr. Driska read his May 1, 2018 memo, stating that he is requesting the applicant to provide staff with weekly Erosion and Sedimentation Control Inspection Reports, as a condition of approval.

Attorney Joan Molloy, of Loughlin Fitzgerald in Wallingford, Connecticut, introduced the application and summarized the status of the hearings. She said that they had received the peer review of the soil management report and had provided the requested information. She noted that the peer review concurred with their plan to remove 2 inches of soil and to place it in a conservation area to minimize possible exposure.

She said that they had no objections to the conditions of approval set forth by Mr. Harriman and Mr. Driska and were continuing to work with Attorney Olson regarding the restrictive covenant language. She asked that any voting members of the Commission who had been absent at previous meetings note that they were up to date as to the proceedings.

The hearing was opened up to public comment. Mike Camilleri, 14 Centerwood Drive, Cromwell, said that he doesn't think that Attorney Olson's comments should be interpreted as disagreeing with his proposed revisions. He said that the applicant was in agreement with the restrictions, so it was unlikely that the suggested provisions would ever be challenged. He asked that it be noted that the HOA would be responsible for caring for the common areas.

The hearing was opened up to Commissioner comments. Paul Cordone said he was concerned regarding the data gaps noted in the peer review. He wanted more complete paperwork and records regarding the handling and removal of the tainted soil. He wanted the two traffic study reports to be combined into one for clarity. He said that he had faith in the applicant and thought they produced a good product.

Mr. Popper said that the Town Engineer's memo required a final soil management plan.

Tom Daly, P.E., with Milone and MacBroom, said that a revised final traffic study would be provided. Scott Bristol, LEP, with Milone and MacBroom, said that the final soil management plan would be provided, with documentation of samples taken.

Michael Cannata spoke regarding Section 3 of the restrictive covenant. He said that the Town could let the protections expire, and gave the example that if they purchased the land, they could choose to put a town garage there. He said that the current applications have neighbor support because of the proposed restrictions.

Attorney Molloy said that the language should be flexible enough to allow for planning in the future. She had the Planning and Zoning Commission as the authority because they knew the application history, but Attorney Olson had changed it to the Town Council. Attorney Molloy said that the only access to the lot was via a 25 foot ingress/egress easement. She said that the future owner of the lot needed to have the same property rights as any other homeowner of a single family lot. She said that the property contains wetlands and will have a non-disturbance zone, further limiting it. She was agreeable to approval conditioned upon approval of the restrictive covenant language by Attorney Olson.

Michael Cannata said that the town is an adjacent property owner and could do something with it in the future. He wanted a guarantee it would remain open space. Attorney Molloy said that it is a single family lot, not open space. She spoke regarding a similar development situation in Wallingford, which was allowed after public hearings, to state that development could not be done on a whim. The testimony heard tonight could be used at later hearings. Michael Cannata said that he wanted it made clear that the intention is for the lot to be used as a single family residence, and not for commercial or industrial purposes, or for a town garage. Attorney Molloy said she did not object to removing the expiration clause. Ken Rozich said that approval could be conditioned on the Town Attorney adding in language that it remain a single family residential lot.

Mr. Popper noted uses allowed in single family residential lots, such as farming, the construction of a barn or accessory apartment, deck, or storage building, and the operation of a home based business.

Chairman Kelly said that a public hearing would need to be held regarding the location of a town garage, citing a recent vote regarding a sewer garage project. Ken Rozich and Michael Cannata both spoke in support of removing Section 3, saying that the applicant was agreeable to it.

Michael Camilleri, 14 Centerwood Drive, said that he wanted the language of the covenant to be clarified to say "single family residence". Attorney Molloy agreed to work with the Town Attorney to change the language and said that Attorney Olson should be given the meeting minutes so that the Commission's intent is clear.

Attorney Molloy summarized how the applicant met the Special Permit criteria set forth in Sections 8.7d and 8.7e of the Zoning Regulations for Application #18-05. She said they had approval from Inland Wetlands and the various town departments, complied with the zoning regulations and the application was in harmony with the town's Plan of Conservation and Development. She said that the application protected natural resources, conserved open space, was in a suitable location, the proposed impacts were the same as for traditional subdivision development, it was an attractive and suitable design, with minimal fiscal impact, had a sufficient stormwater management plan, did not change traffic service levels, had acceptable sightlines and road access, used public utilities, and that it adequately protected public health and safety. The plan protected 21 acres or about 42% of the land as open space and the HOA would maintain the infrastructure and open space.

She next summarized Application #18-13 in which screened topsoil would be brought in to the site. No crushing, washing or blasting would occur. Some screening would be done on site, about 25%. The operation would occur between 7 a.m. and 4:30 p.m., excluding Sundays and holidays. There would be no fixed equipment on site, and noise, dust and stagnant water kept to a minimum. The truck route would be as set forth by the Chief of Police. There would be no filling near existing residences.

Attorney Molly said that all concerns had been addressed for both applications and requested approval.

Chairman Kelly, Ken Rozich, Ken Slade, and David Fitzgerald all stated that they had listened to the tapes for the meetings for which they were absent.

Michael Cannata made a motion to close the Public Hearing; Seconded by Jeremy Floryan. *All in favor; motion passed.*

Michael Cannata made a motion to approve Application #18-05, Request for a Special Permit under Section 8.7 of the Zoning Regulations for the proposed Planned Residence Development at 76 Field Road, with the following conditions: that it be recognized that the Commission agrees with Attorney Molloy's comments regarding the criteria set forth by Section 8.7 of the Zoning Regulations, that approval be subject to the conditions contained in the Town Engineer's memo dated May 1, 2018, that Section 3 of the restrictive covenant be deleted and Section 1 be revised to read "The Single Parcel shall not be further subdivided and shall remain a single parcel of land and shall be used as a sole single family residential parcel", that the town attorney and town staff review the restrictive covenant and it be agreed upon as to the intentions of the Commission as noted in the meeting minutes, and that the condition set forth in the Zoning & Wetlands Enforcement Officer's memo dated May 1, 2018 be adhered to; Seconded by Ken Slade. *All in favor; motion passed.*

Michael Cannata made a motion approve Application #18-13, Request for Special Permit under Section 6.1 of the Zoning Regulations for filling at 76 Field Road, 59R Nooks Hill Road and 10 South Ridge Road, subject to the conditions contained in the Town Engineer's memo dated May 1, 2018 and the condition set forth in the Zoning & Wetlands Enforcement Officer's memo dated May 1, 2018; Seconded by Jeremy Floryan. *All in favor; motion passed.*

Michael Cannata made a motion to approve Application #18-06, Request for Site Plan Approval for the Planned Residence Development Zone District at 76 Field Road, subject to the conditions contained in the Town Engineer's memo dated May 1, 2018 and the condition set forth in the Zoning & Wetlands Enforcement Officer's memo dated May 1, 2018; Seconded by Ken Slade. *All in favor; motion passed.*


12. Approval of Minutes:

- a. March 27, 2018: Michael Cannata made a motion to approve the minutes as presented; Seconded by Paul Cordone. *All in favor; motion passed.* (Ken Slade abstained).
- b. April 3, 2018: No action taken
- c. April 24, 2018: No action taken

13. Commissioner's Comments: NONE

14. Adjourn: A motion to adjourn was made by Michael Cannata; Seconded by Jeremy Floryan. Meeting adjourned at 8:38 p.m.

Respectfully submitted,


Julie C. Petrella
Recording Clerk