

UNAPPROVED

WESTBROOK PLANNING COMMISSION
REGULAR MEETING
Monday, April 12, 2010
Multi-Media Room, Mulvey Municipal Center, 866 Boston Post Road

Call to Order

Chairman Ozols called the meeting to order at 7:07 p.m.

A quorum was established with the following Commission members present: Marilyn Ozols, Chairman, Carole Ketelsen, Marie Farrell (seated alt), Bill Neale, Libby Waldron (seated alt), Bob Furno (alt). Meg Parulis, Town Planner was also present.

NEW BUSINESS:

Buttermilk Farms, LLC v. Planning and Zoning Commission of the Town of Plymouth, 292 Conn. 317 discussion with Atty. Mark Branse and possible responses (e.g. recommendation for discontinuance of unimproved roads or for re-zoning of property on sub-standard roads, proposed amendment to Sects. 4.5.4.1 & 4.6 of the Subdivision Regulations.

Chairman Ozols introduced Atty. Mark Branse of Branse, Willis & Knapp, LLC who is counsel to the Planning Commission. She indicated that Atty. Branse was here to discuss the memo sent to the Land Use Office on 9/8/2009 regarding the ramification of the Buttermilk Farms decision and to answer any questions the Commission may have.

Atty. Branse relayed that the Court concluded that “there is nothing in C.G.S. 8-25 that authorizes a planning commission to require a developer to improve an existing public highway where no intersecting subdivision streets are being created”. The Court further concluded that 8-25 “does not grant the commission the authority to require off-site sidewalks on existing roads.” He stressed that the Court made it equally clear that a subdivision cannot be denied due to the inadequacy of an existing public road that serves that subdivision and that the town’s remedy to an unsafe road is to *make* it safe.

The Court made this decision not only based on the language of C.G.S. 8-25, but also on the language of C.G.S. 13-99 which imposes on municipalities the obligation to construct and maintain all necessary highways within their borders. The mechanism to upgrade substandard roads is prescribed in C.G.S. 8-29 which authorizes the planning commission to prepare plans and surveys for road improvements and to assess the owners of the land served by such improvements. Similarly C.G.S. 13a-83 authorizes municipalities acting through the Board of Selectmen to assess abutting owners for the cost of improving public streets. The Courts noted, under these statutory provisions, it is the Town’s responsibility to bear the initial design and construction costs before passing them on to the abutting owners.

Atty. Branse recommended that the Planning Commission make the Board of Selectmen aware of the potential budgetary impacts of this decision. He also suggested the following possible responses to the court decision:

- Speak with legislators and communicate with CCM if you feel that C.G.S. 8-25 should be revised to authorize planning commissions to require upgrades made necessary by subdivisions.
- Assess roads that are seriously substandard for discontinuance under C.G.S. 13a-49.
- Immediately identify those roads in most dire need of improvement that cannot be discontinued and seek funding to survey them and design improvements in preparation for an assessment of benefits under C.G.S. 8-29 and/or C.G.S.13a-83.
- Examine current zoning densities on substandard roads and consider re-zoning to lower densities that can be safely accommodated by the existing road.
- Review policies concerning rear lots on existing roads as rear lots create a greater burden on existing roads by allowing a greater number of lots along a given linear footage of road frontage.

After listening to Atty. Branse's review of the court decision and possible responses to same as outlined above, it was the consensus of the Commission that they should recommend to the Board of Selectmen that all unimproved roads be discontinued to avoid potential costly capital improvements and that roads not meeting current standards should be identified to determine whether areas served by these substandard roads should be re-zoned.

Ms. Ketelsen noted that Toby Hill Road is unimproved and questioned whether there were portions of Pine Lake Road and Wright's Pond Road that were unimproved. Ms. Parulis was asked to look into their status. She responded that the recent work on the GIS street map will enable her to easily determine this.

Ms. Ketelsen made a motion to recommend to the Board of Selectmen that the unimproved section of Toby Hill Road to the Essex town line be discontinued as a Public Highway along with any other portions of unimproved town roads as determined by the Town Planner. Ms. Farrell seconded the motion. The motion passed unanimously. Ms. Parulis was directed to prepare a letter to the Board of Selectmen.

Ms. Parulis called to the Commission's attention the need for a north/south connector and distributed a map showing a possible alternate route for the extension of Toby Hill Road. The proposed route would more safely intersect with E. Pond Meadow Road in Essex and would avoid or minimize environmental impacts. It would also lead to more efficient development of the vacant land. The road would be completed as each parcel is developed. The new road layout would need to be coordinated with the Town of Essex. Atty. Branse suggested that this issue be addressed in the Plan of Conservation and Development update.

The need to amend Sections 4.5.1 and 4.6 of the Subdivision Regulations concerning off-site improvements was also discussed. It was suggested that to each section the language, "*to the extent permitted by statute*" be added. Ms. Parulis was directed to prepare the amendments for public hearing.

The Commission thanked Mr. Branse for his information and participation at this evening's meeting.

SUBDIVISIONS:

2009-001-P-1 – J.J. Russo, Inc. Horse Hill Road, 142 Ac. Map 62, Lots 61, 61A & 70 – Preliminary Discussion.

Mr. Doane was present to discuss two alternate road configurations for the above referenced property. Mr. Doane distributed maps; one showing common driveways and the other showing a town road with a 12% grade. These roads/driveways would service the five houses shown on the map presently and several additional houses anticipated in the future.

The Commission discussed Mr. Doane's proposal including impervious areas, sloping, retaining wall appearance, grading, ledge and guardrails. Safety issues relating to a steep roadway were discussed as well.

Ms. Parulis reported that she had asked a resident on a similarly sloped road (Rintoul Pond) whether they had experienced any difficulty getting up or down the road in inclement weather. It was reported that there were no issues. She also consulted with the Public Works Director, John Riggio, to see if there were any issues plowing Rintoul Pond Road. He responded that as long as there were no curves in the road there shouldn't be a problem.

Mr. Neale was concerned that the salt/sand needed to maintain the road in the winter months would adversely affect the watershed. Mr. Doane responded that they are required to demonstrate the quality of the storm water and he outlined the detention basin parameters. Mr. Doane commented that the town is responsible for cleaning out the catch basins.

Ms. Ozols commented that there are legitimate reasons for considering allowing a 12% grade; however, she felt it necessary to see the road in the context of the whole plan before a final decision is rendered.

Ms. Parulis reminded Mr. Doane that he will need to demonstrate that each of the lots could be served by their own driveways before the Commission can approve a common driveway. He indicated that he has already looked at that and does not believe there will be a problem.

TOWN AND GOVERNMENT AGENCY REFERRALS:

1. **DEP Application No. 201001037 – JW Prop. Of Widlitz, 830 Boston Post Rd. to install a fixed pier, ramp and floating dock for private recreational boating.**

Chairman Ozols reported that in the drawings, the proposed dock appears to extend beyond the harbor encroachment line. These harbor lines indicate the line beyond which no docks were to extend. She continued that the Town has always objected to any encroachment. She was concerned that if allowed in this case, a precedent would be set. She continued that a Public Hearing is scheduled.

Ms. Farrell commented that similar applications have not been accepted in the past. Members who boated in that section of the river noted that the dock appeared to be extending into the deeper, more navigable part of the river.

Ms. Ketelsen made a motion expressing the Commission’s objection to any dock extending out into the channel, beyond the harbor line and extending into the deep water. Such encroachment prevents navigation. Ms. Farrell seconded the motion. The motion passed unanimously.

2. **Water Quality Certificate Application No. 201001392-SB U.S. Army Corps of Engineers, dredging of the Clinton Harbor and Patchogue River navigation projects with placement of the dredged material at Hammonasset Beach, Madison.**

Chairman Ozols explained that this application is the result of the efforts of the Harbor Commission to dredge the channel. The dredging will be done in partnership with the Town of Clinton. If DEP allows the placement of the dredged material at Hammonasset Beach, the dredging can be done for the previously budgeted amount (\$600,000) and will not require the use of the \$100,000 appropriation recently approved by the Town.

Ms. Farrell made a motion to support the Water Quality Certificate Application No. 201001392-SB U.S. Army Corps of Engineers. Ms. Waldron seconded the motion. The motion passed unanimously.

ZONING REFERRALS:

1. **Zoning District Map – Public Hearing 5/25/10**

Ms. Parulis reported that the Zoning Commission is looking to officially adopt the digital version of the zoning map created as part of the GIS Implementation project.

Mr. Neale made a motion to recommend the digital zoning map be adopted as the official Zoning Map. Ms. Ketelsen seconded the motion. The motion passed unanimously.

SELECTMEN REFERRALS: None.

OLD BUSINESS:

1. **Plan of Conservation and Development** – Ms. Parulis reported that a Public Workshop on the POCD was held and the Steering Committee will meet next week to review feedback.
2. **Storm water Regulations** – A meeting is scheduled for next week.
3. **GIS** – Ms. Parulis reported that the linking issues with the Assessor’s office have been addressed. She anticipates having the web site up in May.

NEW BUSINESS:

1. **CRERPA/Gateway Land Use Commission Viewshed Survey** – Commission members returned the surveys distributed at the last meeting.

BILLS:

Mr. Neale made a motion to pay the following bills from the General Account. Ms. Ketelsen seconded the motion. The motion passed unanimously.

<u>General Accounts</u>	
PC Rec. Sec. – S. Helchowski	\$100.00
POCD Rec. Sec. – N. Rudek	\$94.50
Legal – Branse, Willis, Knapp	\$681.50
Supplies – W.B. Mason	\$146.15
Printing	\$95.50
GIS – Applied Geographics	\$950.00

Mr. Neale made a motion to pay the following bills from the Special Funds. Ms. Ketelsen seconded the motion. The motion passed unanimously.

<u>Special Funds</u>	
AH Study – Planimetrics	\$2,000.00
Applied Geographics, Inc.	\$2,499.39
RMS (GIS ID conversion)	\$300.00

MINUTES

1. Regular Meeting – March 8, 2010

Mr. Neale made a motion to approve the meeting minutes from the Regular Meeting dated 3/8/10 as presented. Ms. Ketelsen seconded the motion. The motion passed unanimously.

REPORTS:

Inland Wetlands Commission – no new report

CRERPA – Mr. Neale reported that the Council of Governments has drafted a proposal to OPM proposing that the Mid State region and CT River Estuary regions be combined if it is decided that the number of regional planning agencies should be reduced.

Harbor Commission – Ms. Parulis reported that the Town Meeting approved the appropriation for dredging; however, these funds may not be necessary.

Town Center Revitalization – Ms. Ozols reported that the Committee is drafting recommendations to the BOS that would give direction for Scout projects.

Ms. Ozols reported that an “Adopt-a-Spot” program, in partnership with the Garden Club has been initiated. This program would maintain planted areas throughout Westbrook.

Meg Parulis reported that two more benches will be ordered for the Town Green.

CORRESPONDENCE: None.

ADJOURNMENT

Ms. Farrell made a motion to adjourn the meeting at 9:14 p.m. Ms. Ketelsen seconded the motion. The motion passed unanimously.

Respectfully Submitted,

Suzanne Helchowski