

APPROVED

WESTBROOK PLANNING COMMISSION
REGULAR MEETING
Monday, November 8, 2010
Multi-Media Room, Mulvey Municipal Center, 866 Boston Post Road

Call to Order

Chairman Ozols called the meeting to order at 7:00 p.m.

A quorum was established with the following Commission members present: Marilyn Ozols, Chairman, Carole Ketelsen, Phillip Bassett, Ashley Jones, Bill Neale, Libby Waldron (alt) Bob Furno (alt), and Marie Farrell (alt)..

Also in attendance: Meg Parulis, Town Planner, Bob Doane, Craig Badstuebner, Attorney Ned Fitzpatrick, Attorney Ray Lemley, Carlo Centore, and Michele Morin.

SUBDIVISIONS:

- 1. 2010-001-P Resubdivision Land of Paul J. Vumbaco, 7 lots on 35.52 acres including road construction, located on Toby Hill Road, Assessor Map 117, Lot 6 (formerly Assessor's Map 77, Lot E105).** *Waivers requested. Site walk conducted on 9/8/10. Public Hearing conducted 9/13/10 & 10/18/10. Decision by 12/22/10.*

Ms. Ozols noted that the public hearing on this matter was closed on October 18, 2010. She polled Commission members to determine eligibility to vote. Mr. Bassett and Ms. Jones were not present at the last public hearing but indicated that they had listened to an audio tape of the proceeding. Ms. Ozols went on to ask if the Commission members had any concerns or questions that were not addressed during the public hearing.

Mr. Bassett expressed concern about the substandard road located in Essex that is proposed for access to the subdivision. It was his understanding that the Town of Essex is discussing the possibility of discontinuing said road and that the improvements proposed by the applicant might not be allowed. He felt, at the very least, placement of a sign indicating the town line would be appropriate so that residents understand that the Town of Westbrook is not responsible beyond that point. He was also concerned, that regardless of the note on the plans indicating that the school bus would not be able to provide service to Joseph's Circle that the parents would insist and the school would end up having to get a special van. Lastly, he thought there should be a formal, written agreement from the developer to ensure improvements to the Wills driveway are completed.

Ms. Ozols responded that the applicant has included proposed driveway improvements to the Wills' property on the plans. Before the bonds are released and the public improvements are accepted, a letter from the Wills' informing the Planning Commission that the work was done satisfactorily will be obtained. Regarding the school bussing issues, it was made clear that school bus service would not be provided to the road in question. There is nothing in the regulations requiring bus service. Ms. Ozols continued that the condition of the portion of the road located in Essex is out of the Westbrook Planning Commission's jurisdiction.

Ms. Parulis reiterated that the application complies with the subdivision regulations subject to the granting of the waivers as requested. Ms. Ozols called the Commission's attention to the draft motion regarding waivers included in the meeting packets as prepared by the Town Planner. She asked if there were any questions.

Ms. Ketelsen questioned the type of alternate pervious surface walkway proposed to justify the waiver of Sect. 4.6(4). Ms. Parulis briefly reported on her research of the EZ Roll Gravel Pavers. She indicated

that it would be a low maintenance, long lasting and environmentally friendly solution that will fit in with the natural setting. Because the system requires only a 4" base, it will not affect tree roots or undermine the stone wall. This product has been discussed with the Town Engineer who agreed it was an appropriate application. Ms. Parulis felt that this will be a good test case to determine if this type of product should be used more widely. Ms. Ozols further noted that the final details will be presented to the Commission as indicated in the draft motion.

Ms. Farrell felt that the language with regard to the waiver of Sect. 4.5.6 was contradictory and questioned why the number of lots should be limited to 12 if the road might someday become a through road. Ms. Ozols suggested the words "by the dead end street" be added at the end of the sentence. In the same section, Ms. Ketelsen noted that E. Pond Meadow Rd. should be changed to Pond Meadow Rd. "in Essex" as the road name changes at the town line.

Ms. Ketelsen questioned whether the term "bituminous concrete lip curb" as used with regard to the waiver of Sect. 5.5.8 was correct. Ms. Ozols responded that it was.

Hearing no more questions or corrections, Ms. Ozols called for a motion.

Mr. Neale made a motion to grant a waiver of the following Subdivision Regulations in association with Application No. 2010-001-P, Re-subdivision of Land of Paul J. Vumbaco located on Toby Hill Road, Assessor's Map 117, Lot 6:

Section 4.5.2 –roadway angle of intersection (80 degrees vs. 90 degrees) because the line of the existing lot (Daka prop.) establishes the proposed roadway alignment and intersection with Toby Hill Rd.

Section 4.5.6 – length of temporary dead end street because Sect. 4.5.7 requires roads to extend to adjoining undeveloped properties where there is potential for creation of a through road. In this case, the proposed road has the potential to connect to Pond Meadow Rd. in Essex through the undeveloped property to the north. No more than 12 lots are proposed to be served.

Section 4.5.15(5) – driveway radius (10' vs. 25') because the 10' radius will adequately serve a single family residence, reduce impervious surface and maintain residential character.

Section 4.6(4) - sidewalks, because an alternate pervious surface walkway has been proposed in lieu of a standard sidewalk that will provide safe pedestrian passage along the road with the benefit of preserving the existing stone wall along Toby Hill Rd., minimizing grading, and reducing the amount of impervious surfaces.

Section 5.5.1 – reduction of road width from 24' to 22' for Toby Hill Road and proposed subdivision roads because reduced width will result in less impervious surface, be consistent with other development on Toby Hill Rd. and adequately serve the projected traffic and emergency service needs.

Section 4.5.15(3) – stormwater flow from driveways, because the gutter flow analysis demonstrates there will be no adverse impact to the roadway.

Section 5.5.8 – use of cape cod curb in lieu of bituminous concrete lip curb because the cape cod curb allows migration of small amphibians.

In granting the above waivers, the Commission finds that, for the reasons stated, these conditions are peculiar to this parcel and not generally applicable to other parcels and the granting of these waivers does not have a significant adverse impact on adjacent property or on public health and/or safety and does not significantly violate the Master Plan of Development.

Ms. Jones seconded the motion. The motion passed unanimously.

Ms. Ozols next called attention to the draft motion for Conditional Approval also included in the packets and asked if the Commission members had any comments or questions with regard to the application of draft motion.

Ms. Ketelsen asked what the width of the walkway would be and felt that it should be specified in the motion under 1b. Ms. Parulis responded that the standard width of a sidewalk is 4'. Ms. Ketelsen further suggested that the language in 1.c. be revised as follows, "No Westbrook School Bus Service Will Be Provided on Toby Hill Road, Joseph's Circle or on Pond Meadow Rd. in Essex. It was agreed that both suggested changes should be incorporated in the motion.

Hearing no further comments or questions, Ms. Ozols called for a motion.

Mr. Neale made a motion that in accordance with Sections 7.00.00 and 9.12.08 of the Westbrook Zoning Regulations, the Planning Commission finds the proposed re-subdivision consistent with the criteria set forth in both referenced sections and hereby approves the special permit application, and further, in accordance with the Westbrook Subdivision Regulations, grant CONDITIONAL APPROVAL to the application of Paul J. Vumbaco (Application No. 2010-001-P) for a 7 lot re-subdivision, including a road, located on Toby Hill Rd., Assessor's Map 117, Lot 6, as shown on the plans entitled: Resubdivision of Land of Paul J. Vumbaco, Toby Hill Rd., Westbrook, CT prepared by Doane-Collins Engineering Associates LLC, dated 1/30/06 revised through 10/6/10 consisting of 18 sheets, with the following modifications and conditions:

- 1. Plans shall be revised as follows:**
 - a. Widen Joseph's Circle and Future Road Ext. to 22'**
 - b. Eliminate the sidewalk on Toby Hill Rd. and replace with a 4 ft. wide walkway in the location shown on Exhibit EEE. The walkway shall be constructed utilizing EZ Roll Gravel Pavers or equivalent and a cross-sectional detail with specifications shown on the plans.**
 - c. Note 1. On shts. PV-1 through PV-8 shall be revised to clearly state that "No Westbrook School Bus Service Will Be Provided on Toby Hill or Joseph's Circle or on Pond Meadow Rd. in Essex".**
 - d. Note re: Temporary Cul-de-Sac Easement on shts. PV-2, 3, 4 & 5 to be revised to indicate that the paved portion leading to the Open Space parking shall remain.**
- 2. Revised plans shall be submitted for review by the Planning Commission to determine consistency with the required modifications within 35 days of this approval.**
- 3. Upon approval of the revised plans, a mylar copy with Conditional Approval signature block as provided and four (4) sets of plans shall be submitted for endorsement.**
- 4. A draft deed for the conveyance of the 6.38 acres to the Essex Land Conservation Trust as shown on the Index Plan and Pv-5 shall be submitted within 60 days of this approval and prior to endorsement of the mylar.**
- 5. A Processing Fee in the amount of \$350.00 and an Inspection Fee in the amount of \$5150.00 shall be submitted within 60 days of this approval and prior to the endorsement of the mylar.**
- 6. An Erosion Control and Site Restoration Bond in the amount of \$35,000 shall be submitted within 60 days of this approval and prior to the endorsement of the mylar.**
- 7. A restrictive covenant, in the form prescribed by Commission Counsel, shall be filed on the Land Records simultaneously with the mylar, restricting the conveyance of lots until such time as Final Approval has been granted.**
- 8. The Town Planner shall be notified in writing at least 14 days prior to construction for the purpose of scheduling a pre-construction meeting. At this time, the applicant shall submit**

General liability insurance policy in accord with Sect. 2.11 of the Subdivision Regulations.

This CONDITIONAL APPROVAL shall expire on November 8, 2015 and is conditioned on (1) the completion of construction, maintenance and installation of any improvements or utilities prescribed by the Commission estimated at \$665,000 or (2) the furnishing of a bond or other assurance as provided in Sect. 2.11, and the conveyance of Open Space including land in the Town of Essex, execution of all deeds and easements, and all other application requirement of the Subdivision Regulations. Unless and until Final Approval has been granted, NO LOTS SHALL BE CONVEYED TO CONSUMER PURCHASERS.

Ms. Ketelsen seconded the motion. The vote was 4-1-0 with Mr. Bassett in the negative.

After the vote, Mr. Fitzpatrick inquired as to whether the deed for the Open Space in Essex needed to be executed, and noted that acceptance by the Essex Land Trust was not in the applicant's control. Ms. Ozols responded that it was represented in the record of the public hearing that the Essex Land Trust had agreed to accept the property. This condition was necessary since Open Space in Essex was used to meet the min. requirement. If this condition cannot be satisfied for some reason, the applicant will need to seek a modification and provide additional Open Space in Westbrook.

Mr. Doane stated that since it was after the vote, he could report that the Essex Board of Selectmen decided not to pursue discontinuing Toby Hill Rd. He affirmed that the applicant has every intention of improving Toby Hill Rd. to the intersection with Pond Meadow Rd. Mr. Doane and Attorney Fitzpatrick thanked the Commission.

2. 2004-008-P Subdivision of 243 Grove Beach Rd. N (aka Fairway Estates), 3 lots on 6.69 acres including road construction, Assessor's Map 23, Lot W13. Conditional approval granted 10/18/06 – expires 10/18/11. Request for acceptance of Public Improvements (Fairway Lane) and Final Approval.

Mr. Raymond Lemley, Grove Beach Road Association, reported that drawings showing improvements and as-built plans have been submitted. These as-builts reflect changes made during construction and as requested by town staff and DOT. Also, the legal documents have been reviewed and approved by Attorney Willis and the roads and sidewalks have been inspected by the Town Engineer, Director of Public Works, Town Planner and DOT. He believes that all requirements have been met and is requesting both final approval and acceptance of the public improvements. He then asked if the Commission had any questions.

Mr. Neale inquired whether a determination had been made regarding the fire tank. Ms. Parulis responded that there was discrepancy in the plans that were approved. Also, the tank shown on the plans was undersized and would be of limited value. In lieu of installing the tank, upgrades beyond what was required were made to the drainage structures. These upgrades included enlargement of the detention basin, installation of a pipe from the dry well to the detention basin and installation of a neck down at the outlet of the detention basin to hold back more water. Ms. Parulis reported that the applicant's Engineer had re-run the drainage calculations based on existing conditions in order to demonstrate compliance with the requirements.

At this point, the Chair recognized Mr. Craig Badstuebner of 288 Grove Beach Road North. He reported that he and his neighbors are concerned over the design and potential final approval of this project. He updated the Commission on various flooding events experienced since the start of this project. Mr. Badstuebner added that the changes made have not been evaluated during the "rainy season". He indicated that these issues have been discussed with Ms. Parulis as well as Mr. Riggio, Director of Public Works. He questioned whether the Engineers have taken into account future development (i.e. paved driveways and houses) in their calculations.

Ms. Ozols noted that the state granted permission to tie into the existing culvert and that there is an existing right to drain over Mr. Badstuebner's property.

Mr. Lemley reported that appropriate calculations were made in conjunction with and to the satisfaction of the State and the Town Engineer. He reiterated his belief that the drainage issues have been addressed as requested and approval is appropriate at this time.

Ms. Parulis reported that while the regulations require a zero rate of increase to run off, the volume of water can increase. She continued that she has witnessed first-hand a lot of water going down the driveway in question. Based on her observations, she had directed the applicant to do more; which they did. Also, engineers have determined that all requirements have been met.

Mr. Badstuebner stated that there was never a problem until after the development of the property. He is concerned that it will get even worse after houses and driveways are constructed. He wanted to know what future provisions will be made by the Town to address flooding of his property. He also expressed concern about icing on the road and in the driveway to the day care center from the runoff.

Ms. Ozols inquired as to whether the revised drainage calculations had been reviewed by the Town Engineer. Ms. Parulis responded that they had not since the original calculations, before the upgrades, had been found to be in compliance. She also noted that the original calculations were reviewed by Codespoti.

Ms. Ozols acknowledged that while a great deal of effort has been put into this project by staff and the applicant, given the continued concerns from neighboring property owners, she feels a review of the design plans and calculations by Woodard and Curran is in order. Commission members agreed and the Planner was directed to forward the information for review and report back at the next meeting.

3. 2010-002-P Subdivision of Land of Seaside LLC, 2 lots on 4.1 acres, located on 548 Boston Post Rd., Assessor's Map 188, Lot 190 (formerly Map 24, Lot N30A). Coastal Site Plan Review.
Date of receipt 9/13/10. Decision by 11/17/10.

Ms. Ozols explained that the waivers requested in association with this application had been granted at the last meeting, and the only item remaining was submission of the legal documents. Ms. Parulis reported that the outstanding documents had been submitted and the conditions of the waivers had been incorporated on the Final Plans. Ms. Ozols called the Commission's attention to the draft motion and asked if there were any questions.

Ms. Ketelsen expressed concern that the language in item 1 would not prevent the placement of a ready-made shed or outbuilding. She suggested the addition of the words "or moved to".

Ms. Ozols called for a motion.

Mr. Neale made a motion to grant FINAL APPROVAL to the application of Property of Seaside, LLC (Application No. 2010-002-P) for a two (2) lot re-subdivision of property located on 478 Boston Post Road, Assessor's Map 188, Lot 190 as shown on the plans entitled: Map Depicting Land of Seaside, LLC, Westbrook CT prepared by Doane-Collins Engineering Assoc. LLC dated 8/2/10 and revised through 11/5/10 consisting of 2 sheets subject to the following:

- 1. Compliance with the conditions of the waiver grant 9/13/10, specifically, the addition of a note to the plans, in 14 point type, indicating that no buildings are to be constructed on or moved to Lot 1B.**
- 2. Submission of a processing fee in the amount of \$100.00.**

This action shall become null and void if the Final Subdivision Plan and other required documents are not delivered to the Town Planner within sixty-five (65) days of this Motion, in accordance with

Section 2.9 of the Subdivision Regulations.

A Coastal Site Plan review has been performed relative to this application and it is found to be consistent with the goals and policies of the Coastal Management Act with the condition that no building be constructed or moved onto Lot 1B. The Commission finds that this condition is necessary for compliance with Sect. 6.4 and integral to the approval of the Coastal Site Plan Review application in the sense that, but for this condition, the application would have been denied.

Mr. Bassett seconded the motion. The motion passed unanimously.

TOWN AND GOVERNMENT AGENCY REFERRALS:

1. Town of Old Saybrook – “The Preserve” Modification to Approved Special Exception for Preliminary Open Space Subdivision Plan for 226 total dwelling units (952.82 total acres) & Open Space (556.83 total acres). Public Hearing scheduled 12/1/1- & 12/15/10

Information regarding “The Preserve” was included in the Commission’s packet. Ms. Ozols explained that because this proposal may come before the Westbrook Planning Commission in a future application, discussion at this time is inappropriate. She reported that a meeting had been scheduled with Town Counsel to discuss the Town’s official response. Ms. Parulis noted that the referral to the Planning Commission from the Town of Old Saybrook was done as a courtesy and is not mandatory.

SELECTMAN’S REFERRAL:

Mr. Neale made a motion to add to the agenda discussion on a possible easement for Michelle Morin, FKA Michelle Daly, for property at 497 Toby Hill Road. Ms. Ketelsen seconded the motion. The motion passed unanimously.

Ms. Parulis reported that the Board of Selectmen referred this issue to the Planning Commission at their 11/8/10 meeting. A correspondence from Atty. Wells was distributed to Commission members.

Ms. Michelle Morin reported that while a Certificate of Occupancy was issued by the Building Department and signed off by the Sanitarian when she purchased the property, no Certificate of Discharge was issued. The required as-built survey was never received/properly filed. Ms. Morin now wishes to sell the property. The buyer’s attorney discovered the lack of a Certificate of Discharge upon reviewing the file. The as-built survey was located and it showed the septic tank approximately four feet from the boundary line as opposed to the required ten feet. Since moving the tank and associated pipes would be prohibitively expensive due to ledge conditions, she was advised to request an easement.

Members of the Commission expressed concern with setting a precedent due to an installation error, but agreed there would be minimal impact to the Open Space. There was some question as to whether the existing system was adequate to serve the existing bedrooms including an accessory apt. over the garage that was illegally created.

Ms. Morin assured the Commission that she was doing everything necessary to obtain the proper permits and bring the property into compliance.

Ms. Ketelsen made a motion that the Planning Commission recommend granting the easement to the BOS with the condition that if any septic tank work is done in the future, the tank be moved at that time to a complying location. Mr. Neale seconded the motion. Discussion followed:

Ms. Ketelsen amended the motion to add: the Grantor hereby conveys, grants, and transfers to the Grantee, her heirs, successors and assigns, an easement, more particularly described on Schedule “A” attached hereto for the purpose of meeting the required setbacks for a septic tank. The intent of this easement is to permit the existing installed septic tank, as shown on said Map, to remain in its current location, and to provide the necessary set back areas from said tank. Mr. Neale

seconded the amended motion.

The vote on the motion was 4-1-0 with Ms. Ozols voting in the negative. The motion was approved

Ms. Parulis reported that this issue will ultimately have to go to a Town Meeting.

ZONING REFERRALS: None.

OLD BUSINESS:

POCD Update – Ms. Ozols reported that the survey was placed in the fall edition of Westbrook Events, but that there had been a cost of \$1,000.00.

Ms. Parulis reported that it is anticipated that the consultant will have a draft of the plan by the end of the year. The group intends to finalize the Affordable Housing Plan at their next meeting.

Stormwater Regulations – Ms. Parulis reported that a draft of the stormwater regulations will be available at the next meeting. Wendy Coffin from Woodard & Curran will review the regulations with the Commission.

NEW BUSINESS:

Meeting Dates

Ms. Ketelsen made a motion to approve the following Planning Commission meeting dates: 1/10/11, 2/7/11, 3/14/11, 4/11/11, 5/9/11, 6/13/11, 7/11/11, 8/8/11, 9/12/11, 10/17/11, 11/14/11, 12/12/11 and 1/9/12. Mr. Bassett seconded the motion. The motion passed unanimously

Budget - A copy of the Planning Commission Budget Packet was distributed and discussed. In order to reflect a 0% increase, as requested by the BOF, the legal line item (010-0410-048-0234) was reduced to offset the mileage (\$350) and legal ad (\$700) budget amounts that were inadvertently omitted from the FY10/11 Budget. The legal line item was further reduced by \$700 to offset the increase to the printing line item which was necessary to cover printing of the updated POCD when it is completed. The Planning Commission was uncomfortable making payroll changes until all information is available.

At 9:30 p.m. Ms. Ketelsen left the meeting. Ms. Waldron was seated in her place.

Mr. Neale made a motion to submit the Planning Commission budget as discussed. Mr. Bassett seconded the motion. The motion passed unanimously

BILLS:

General Accounts

PC PT Payroll – L. DeMaria - \$96.60

Dues – APA, CCAPA, AICP - \$459.00 (figure previously approved was inaccurate)

Mr. Neale made a motion to pay the above bills from General Accounts as presented. Mr. Bassett seconded the motion. The motion passed unanimously

MINUTES

Mr. Bassett made a motion to approve the 10/18/10 regular meeting minutes. Ms. Waldron seconded the motion. The motion passed unanimously.

Mr. Bassett made a motion to approve the 10/18/10 Public Hearing minutes. Ms. Waldron seconded the motion. The motion passed unanimously

REPORTS:

CRERPA – Mr. Neale reported that OPM had responded to CRERPA’s letter requesting that they be merged with the Midstate Regional Planning Agency. In essence, they had no objection to such a merger, but did not commit that there would not be a need for further re-organization of the regional planning agencies.

Harbor Commission – Ms. Parulis reported that the Harbor Commission met with Marybeth Hart from the Office of Long Island Sound and Torrance Downes from CRERPA at their last meeting to discuss developing a Harbor Management Plan and dock standards to address the issues in the Patchogue River north of Rte. 1. Mr. Downes talked about the dock study he conducted on the CT River and how that information was used in Old Lyme to regulate docks. He also left copies of Harbor Management Plans from other communities for the Commission to look at. Ms. Hart agreed to review the existing Harbor Ordinance to determine what additional components are needed to develop a Harbor Management Plan

Town Center Revitalization Committee – Ms. Ozols reported that a special meeting is scheduled for 11/17 to discuss the STEAP grant. Also, two new benches have been installed on the Town Green.

CORRPONDENCE:

Ms. Ozols reported that the Bar Association is hosting its Land Use Workshop for commission members in March.

Ms. Parulis reported that it will be necessary to modify the motion granting Final Approval to the D’Aquila subdivision due to the fact that one of the drainage structures was not completely within the easement. The mylar has not been filed and the plans have been revised to show an additional easement. This item will be on the next agenda.

ADJOURNMENT

Mr. Neale made a motion to adjourn the meeting at 9:51 p.m. Ms. Waldron seconded the motion. The motion passed unanimously.

Respectfully Submitted,

Suzanne Helchowski