

SEYMOUR PLANNING & ZONING COMMISSION

Regular Meeting Minutes
April 12, 2012
Norma Drummer Room, Town Hall

Members Present: J. Baldwin, D. Bitso, W. Birdsell, B. Koskelowski,
T. Lavranchuk, Alt.

Member Absent: J. Jaffer

Others Present: Bob Looker, Town Planner, Bill Paecht, ZEO

The meeting was called to order at 7:305 p.m. by Chairman, Jim Baldwin

MOTION: W. Birdsell/D. Bitso to seat T. Lavranchuk as a regular member.
Motion Carried 5-0.

1. Erosion Control Bond, Section 1, Phase 2, Rolling Hills Estates

Don Smith, 56 Greenwood Circle, Seymour was present representing Baker Residential. He stated that bond reductions were made a few months ago and there was a typographical error on the list that he submitted. Mr. Looker has spoken with Dave Nafis, Nafis & Young and everything is fine and this bond can be reduced. Mr. Smith stated that this is for Fox Run and a part of Hidden Meadows and is Section 1, Phase 2 of the subdivision. They are looking for a reduction from \$36,550. To \$19,000.

MOTION: D. Bitso, W. Birdsell to approve the bond reduction for erosion Control bond for Section 1, Phase 2, Rolling Hills Estates from \$36,550.00 to \$19,000.00.
Motion Carried 5-0.

2. Special Permit, Additional Attached Sign, 318 Roosevelt Drive.

Tony Marvulli was present and stated that this is for his new restaurant on Roosevelt Drive. He stated that coming west on Roosevelt Drive you cannot see the building and he is requesting a special permit to attach a sign to the side of the building. The building is currently under construction. He presented a drawing of what the sign will look like and it will exactly like the one on the front of the building. Mr. Baldwin stated that since this is a special permit request a public hearing has to be held.

MOTION: B. Koskelowski/D. Bitso to schedule a public hearing for May 10, 2012 at 7:00 p.m.
Motion Carried 5-0.

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3. Re-Subdivision, Lots 4 & 5, Fieldstone Woods Subdivision, Mountain Road

Joseph Nesteriak was present and stated that they have altered the lot line of Lot 4 to resubdivide Lot 4 and 5 into Lot 6. He stated that all lots are conforming. This has been approved by Inland Wetlands and some conditions were added to that permit regarding soil and erosion controls. He stated that Inland Wetlands also wanted trees left as a buffer and the stone wall rebuilt, which has been done. He stated that they are looking for approval of Lot #6. Chm. Baldwin stated that this will require a public hearing since it is a re-subdivision.

MOTION: B. Koskelowski/W. Birdsell to hold a public hearing on May 10, that 2012 at 7:15 p.m.

Motion Carried 5-0.

4. Seymour Land Trust, Chatfield Street

Atty. Brian Lema was present representing the Town of Seymour and Atty. Fred Stanek was present representing the Land Trust. Atty. Stanek stated that he received a waiver from the First Selectman allowing him to represent the Land Trust for purposes of resolution of the encroachment issues. Atty. Lema stated that he has had several discussions when this issue came to light to come up with an appropriate resolution. Atty. Stanek stated that the Land Trust is amenable to working toward a resolution.

Chm. Baldwin stated that he would like the members to know exactly the issues are. Michael Horbal, registered land surveyor, 52 Main Street, Seymour stated that he just finished making the map of the Legion Pool Seymour Land Trust property on Chatfield Street. He stated that this was done at their request to answer the questions and concerns raised by Planning and Zoning. The map shows the location of their building and where the property lines are. The map also shows the small encroachments of their deck onto the Land Trust property. He stated that they also located a number of utilities that are in the area including features from Chatfield Park, including the baseball back stops, wells and sanitary sewer lines. He stated that they have had discussions with the Land Trust and the Town and there is a solution of taking care of any of the problems of encroachments and utilities. He stated that they just need to work through the details. Mr. Horbal stated that at the field meeting other issues were discussed and those have to do with any erosion control issues along the property line and also some utility interfaces. Those are being addressed but the plans are not finalized at this time. Mr. Horbal stated that the final solutions are going to cover not only the property line but any items that the Building Inspector brought up such as the retaining wall and erosion controls. He stated that at this time the map he presented is the extent of the survey and shows existing conditions. Chm. Baldwin asked if everyone understood the encroachment. He stated that the deck area is approximately 2' and they were under a variance originally up to 1 foot. The handicap ramp, light structures, underground utilities and the Town also has a storm sewers that come down. There are some underground water lines.

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Mr. Baldwin asked if those will be marked. Mr. Horbal stated that about half of them are marked and there are some notes on the map. He stated that they are still trying to verify the location of some of the utilities. Mr. Baldwin asked if there is city water and Mr. Horbal stated that there is not.

Mr. Koskelowski asked what the zoning is for this property. Mr. Looker stated that it is zoned R-18 and the building is designated E. He stated that the regulations have a classification of uses such as these that have been around for a long time and have not caused any problems. He stated that it is actually a conforming use but any changes to it should be reviewed by the Commission. It went to the Zoning Board of Appeals for the variance but never came to Planning and Zoning. Mr. Baldwin stated that now there is a little different use with it being a building of assembly which can be leased out for functions. He stated that now we have a A-2 survey showing the problems and that is what needs to be addressed. Mr. Koskelowski asked about how the parking regulations would effect this property. Mr. Looker stated that he felt it was all right for just their normal use but it would depend on the capacity of the hall and how many people may be there. That is something that will need to be looked at. Alex Danka stated that the capacity is approximately 101. Mr. Looker stated that the Commission should consider. Mr. Horbal stated that this is an existing conditions may and he will return to Inland Wetlands and Planning and Zoning with the erosion control plan and site plan. He stated that they are going to show the number of parking spaces that they have in the pavement areas on the parcel. He stated that they will have a number to work with. Mr. Koskelowski stated that he had some concerns if it was now going to be used as a banquet hall. Mr. Looker stated that it could be considered as an accessory use for a non-profit organization. Mr. Horbal stated that the Land Trust in the past has held fishing rodeos and have had a lot of events for the children in Seymour. Mr. Baldwin stated that right now it would be different activities but it is something that the Commission will look into. Mr. Horbal stated that they have had events for community purposes and had no parking issues. Mr. Birdsell stated that there could be issues with activities here and at Chatfield Park at the same time. Mr. Baldwin asked if they work scheduling out with Parks and Recreation. Mr. Danka stated that on larger events they do.

Mr. Baldwin stated that there are a lot of issues but should deal with the encroachments at this time. He stated that the ZEO issued a temporary compliance certificate and was not aware of the encroachments. Mr. Baldwin stated that the Town of Seymour is going through the Board of Selectmen grant a lease to the Land Trust which will hold harmless the Town if anyone is injured on the property.

Atty. Lema stated that the concept that is being considered would be to grant a revocable license from the Town in favor of the Land Trust. This would allow the Land Trust a temporary use of the deck which encroaches on the Town property until such time as we are able to work through the issues. He stated that the revocable license would contain provisions that would require the Land Trust to obtain a certificate of

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liability insurance which would name the Town as an additional insured. It would also contain indemnification and hold harmless provisions. Mr. Baldwin asked how maintenance would work under that type of license. Atty. Lema stated that it is really a right to use on a temporary basis so it would not get into a maintenance issue. He stated that it is their structure so the Town would not have any maintenance issues. Mr. Baldwin stated that basically they license the property and use it as it's theirs. Atty. Lema stated that the purpose of this particular license is basically just to maintain the status quo on a temporary basis to allow the engineers the drawings and gather whatever information staff may require. Mr. Baldwin stated that it may have to go long term. Atty. Lema stated that there are other solutions that are possible such as a long term license, some adjustment to the boundary line, variances. There are solutions that have not been determined as of yet.

Atty. Stanek stated that we are not exactly sure how we are going to resolve the matter right now, but to move forward as a stopgap the license will be revocable and the Town could revoke it if for some reason the Town felt that the Land Trust was not complying with the terms. He stated that they may end up doing a boundary line revision because there are town walkways onto the Land Trust property. Atty. Lema stated that right now we are dealing with the deck encroachment and any other items will be part of the discussions in the future to resolve them. Atty. Lema stated that now that we will be able to identify exactly what is there, it could be documented through easements, licenses of some other appropriate agreement. Mr. Koskelowski stated that the walkway that goes through the Land Trust property could simply be moved over. Mr. Bitso stated that the fence is also on their property. Mr. Baldwin stated that there have been discussions about switching the property so that the town owns the complete ball field.

Mr. Bitso asked what the difference is between a license and a lease agreement. Atty. Lema stated that in many ways they are similar but a license is directed more toward a use for a particular purpose where a lease is directed at occupancy on a more permanent basis.

Mr. Baldwin stated that the certificate of compliance encompasses the entire area and there are issues that need to be dealt with. Mr. Koskelowski stated that the reason the walkway is on their property because they wanted it on their property so that they could continue the access road to the building. Mr. Baldwin stated that there should have been an easement granted to the Town but there never was. Mr. Baldwin reviewed the file and determined that variances were granted by the ZBA with the condition that an A-2 survey be submitted, but that was never done. Mr. Horbal stated that the map that the Commission has was dated 3/9/06 and was revised through 8/29/07 and it is a zoning location proposed. He stated that means that the map was prepared for the purpose to show proposed addition to the building. The other features existing on the lot at that time are shown.

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Mr. Baldwin stated that they built the building differently than what was proposed. He stated that we could modify the application as to what they did build. Mr. Looker stated that he felt that they were in basic compliance but would like to review it. Mr. Baldwin brought up the matter of the retaining walls and Mr. Horbal stated that they have just started looking into what would be required to fix the retaining walls. It will probably be a month before they have a solution worked out regarding that matter. Mr. Bitso asked if 90 days was reasonable to finalize that situation. Atty. Stanek stated that would be very reasonable and if for some reason they cannot comply they would come back to the Commission. Mr. Baldwin stated that as far as the soil and erosion control measures, the Town will provide the riprap and they will set it to secure the toe of the slope. Mr. Danka stated that they were told that they could not do any work for two weeks. Mr. Horbal stated that he spoke with the excavator today and he wanted to proceed with finishing the plan and putting up the soil and erosion controls. He stated that he needed time to come up with a soil and erosion control plan and will submit that. Mr. Baldwin asked if they felt it was stable enough at this time. Mr. Horbal stated that he will look at it and make recommendations for immediate measures. He stated that he will speak with Wetlands officials regarding emergency measures. Atty. Stanek stated that they will have haybales delivered on Saturday and in terms of placement he asked if they wanted Wetlands to determine that. Mr. Baldwin stated that the area needs to be really stable.

Mr. Baldwin stated that the Commission needs to modify the temporary certificate of occupancy. Atty. Lema stated that it will be modified to instruct the staff to impose conditions that they feel appropriate including the Land Trust obtaining a temporary license from the Town to use the deck which will include a hold harmless provision and certificate of liability insurance.

MOTION: B. Koskelowski/W. Birdsell moved to instruct staff to modify the temporary certificate of occupancy issued to Seymour Land Trust property on Chatfield Street and to impose such Conditions as staff deems necessary including, but not Limited to:

1. execution of Liense Agreement with Town of Seymour for temporary use of Town property related to deck encroachment.
2. Agreement to indemnify and hold Town harmless from use of deck.
3. Provision of Certificate of liability insurance naming Town as additional insured.

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4. Such other conditions as staff deems appropriate and to require submission of additional information as staff may request.
5. Design and construction of the retaining wall should be completed within 90 days.
6. Immediate erosion control measures be set in place and erosion control plan be submitted by next meeting within 30 days.
7. Review complete site plan in regards to the conformance of the zoning regulations in 30 days.

Motion Carried – 5-0.

5. Zoning Enforcement

Mr. Paecht presented his report for March, 2012. He stated that he has been trying to work on the removal of signs and has been helping people to be in conformance with the sign regulations. He stated that the owner of the property at 751 South Main Street has been filling in the back yard. He stated that he sent out letters and the work has stopped but he would still like to meet with the property owner to discuss this matter. Mr. Paecht stated that on Roosevelt Drive next to the Lake House there has been filling and cutting. He stated that he received a call from the owner's attorney indicating that they will return the property back. Mr. Baldwin stated that he requested Mr. Paecht that before he issues any cease and desist orders or takes any major actions that he informs the Commission so that we are aware of it before it comes to the next meeting.

6. Minutes Regular Meeting 02/09/12

MOTION: D. Bitso/W. Birdsell to approve the minutes of the 02/09/12 regular meeting.
Motion carried 5-0.

MOTION: D. Bitso/W. Birdsell to adjourn the meeting.
Motion carried 5-0.

The meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Maryanne DeTullio, Recording Secretary