

## SEYMOUR PLANNING & ZONING COMMISSION

### Regular Meeting Minutes

April 14, 2010

Norma Drummer Room, Town Hall

**Members Present:** A. Yagovane, W. Birdsell, J. Baldwin, J. Jaffer, T. Lavranchuk, Alt.

**Members Absent:** A. Ermer, D. Bitso

**Others Present:** Bob Looker, Town Planner, B. Paecht, ZEO, Eric Swift, Nafis & Young

The meeting was called to order at 7:30 by Chairman, Al Yagovane.

### ***1. Rooster Enterprises Site Plan, New Haven Road***

Mr. Looker stated that some concerns were raised about this project and the applicant is present to explain and give a progress report. Mr. Yagovane stated that there are concerns about the amount of digging at the site on Route 67.

Kevin Cox, Rooster Enterprises, stated that he is about two-thirds through with taking material out of the site. He was approved for 40,000 to 45,000 yards and came back to the Commission for approval to go a little lower. Mr. Lavranchuk asked what the cut below the face grade off of the road was. Mr. Cox stated that it is a couple of feet below the finish road grade and there is still material to be taken out. He is also storing material from the school project. Mr. Baldwin asked who from the Town authorized the material from the school site to be brought and stored at his site. Mr. Cox stated that no one from the Town authorized it. Mr. Baldwin stated that if there is any deviation from the approved site plan it has to come back to the Commission for approval. He stated that when this was approved no materials would be brought back to the site and no material would be transported back to change or alter the grade. Mr. Cox stated that he believed that he was going to bring the site to the approved grade and stockpile the materials. Mr. Baldwin stated that under the site plan approval it does not allow materials to be taken off and brought back on to the site. Mr. Cox stated that the contractor working on the school site authorized the materials to be brought to his site; no one from the town did. Mr. Birdsell stated that it appears to be a mining operation there and the digging is so deep that you cannot see the machine.

Mr. Cox stated that they have sand and gravel being taken out. The site will be at the finished grade when done. There are materials that are not saleable and they are taking material that you can market. Mr. Lavranchuk stated that you cannot dig below the bottom of the footing grade and the site needs to be compacted with suitable material. Mr. Cox stated that they have done that. He stated that the whole area was disturbed randomly and they are expanding on the buildable area. Mr. Baldwin asked if

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any other material from the CVS site was brought on site. Mr. Cox stated that they did need material from him and they brought some back in.

Mr. Yagovane stated that he had asked for reports from the town engineer after they had inspected the site but has not been able to get those. Eric Swift, Nafis & Young stated that he has not been at the site and not aware of what is going on there.

Mr. Baldwin stated that they are doing a disservice to the town and this is a total disregard of the approved site plan. He stated that this is a zoning enforcement matter and he should have been notified that he is in violation of the site plan approval. He stated that the site was to be prepared for his operation and anything other than that needs to come back to this commission for approval.

Mr. Yagovane asked if anyone from Nafis & Young had been to the site and Mr. Cox stated that he did not see them. Mr. Baldwin stated that Mr. Cox is responsible to bring the elevation that was approved by this commission. It is his understanding that no materials were to be taken off the site under the approval. He altered the grade and therefore put the site in jeopardy. Mr. Baldwin stated that he requested that a cease and desist be put on to give Mr. Cox the opportunity to come in and explain what is going on.

Mr. Looker stated that Nafis & Young were requested to make interim inspections and when complete an "as built" be submitted.

Mr. Baldwin stated that when the materials were being brought on he should have come to the Commission and informed them. He stated that the minutes from the original approval state that the site would be prepared and that no materials would be brought in. He stated that when he requested a cease and desist be issued he was told that Mr. Yagovane and the ZEO went to the site and did not see fill being brought in.

Mr. Lavranchuk asked how much has to go back to the school site. Mr. Cox stated that 3,000 to ,500 yards of topsoil will be taken back; it will not stay on site. Mr. Baldwin stated that he cannot use the site to store material from the school site. Mr. Cox stated that he did not think he needed to tell anyone that he is taking materials from the school site. Mr. Baldwin stated that the approval was to remove a certain amount of materials but not to store any on the site.

Scott Ostroski, who is working on the site stated that what is under the pile is graded but they are still doing work on the site. They have all the reports regarding what has been done there; everything is documented. Mr. Baldwin asked how much more is coming to the site and Mr. Ostroski did not know. Mr. Baldwin stated that they are not in compliance with their approval and that is why he asked the ZEO to look at it. They cannot use the site to stockpile any fill from any other site.

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**MOTION:** J. Baldwin/J. Jaffer that as of today (4/14/11) a cease and desist is issued for this project and that the town engineer is authorized to inspect the grades and no materials are brought to the site and as soon as the documentation of the work done is presented by the applicant and the town engineer approves the site, the cease and desist order will be released.

**Motion Carried 3-1, with Mr. Yagovane opposed.**

Mr. Yagovane stated that he voted no on the motion because he had requested the town engineer to be present at the meeting and give a report. He would like them to come to the meeting and report on this project. He stated that he did not want to put the town in a position when someone is stopped from working it costs money. He asked the ZEO to go to the site and come back with a report. The ZEO was there and he asked them to stop digging. Mr. Yagovane stated that he has gone there several times and the gates have been locked.

Mr. Baldwin stated that the cease and desist will be lifted very quickly once the documentation is presented and reviewed by the town engineer and the town engineer inspects the site and approves it.

**MOTION:** J. Jaffer/W. Birdsell, to seat T. Lavranchuk as a regular member.  
**Motion Carried 4-0.**

### ***2. Fawn Woods Estates Subdivision, Davis Road***

Mr. Baldwin recused himself from hearing this matter. Mr. Looker stated that the give year approval period expired on 6/12/08. There are problems with the people living there because they were not able to get oil deliveries this winter. John Calderwood stated that they are asking for an extension of time to complete the project and because of the economic conditions have had difficulty doing so. He stated that they have paid their taxes but do not have the funds to finish the remaining work. Mr. Looker asked how much it would cost to finish the road and Mr. Calderwood stated that it would be approximately \$72,000.00.

**MOTION:** T. Lavranchuk/J. Jaffer, to grant a two year extension from today and clean up the catchbasins and add haybales and a silt fence. The members discussed the motion and then Mr. Lavranchuk Amended his motion to grant a one year extension from 4/14/11 and Mr. Jaffer seconded the amended motion, with the condition that the catchbasins be cleaned and haybales and a silt fence added.

**Motion Carried 4-0.**

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Mr. Calderwood stated that they will clean up the site and he will call Nafis & Young to inspect.

### **3. Sec. 8-24 Referral, Sale of Town Property at 13 Dolan Circle.**

Mr. Looker stated that this site is very steep and narrow. There are no sewers in the area and it would be very difficult to get sewers in. It is marginal as a building lot and he did not think that it would be practical to build on. The best use would be to sell to an adjacent property owner.

**MOTION:** J. Baldwin/W. Birdsell to recommend approval of the Sec. 8-24 Referral, sale of town property at 13 Dolan Circle.  
**Motion Carried 4-0**

### **3. Sec. 8-24 Referral, Sale of Town Property at 21 Paramount Drive.**

Mr. Looker stated that this parcel was part of the April Gardens property and he did not know why the town acquired it. Mr. Baldwin asked if he had any other information on this and Mr. Looker indicated that he did not but did not see any reason for the town to keep it.

**MOTION:** T. Lavranchuk/J. Jaffer to recommend approval of the Sec. 8-24 Referral, sale of town property at 21 Paramount Drive.  
**Motion Carried 4-0**

**MOTION:** J. Jaffer/T. Lavranchuk, to add to the agenda Sec. 8-24 Referral transfer of 13.4 acres of open space Rolling Hill Estates Subdivision Phase II to the Seymour Land Trust.  
**Motion Carried 4-0.**

Mr. Looker stated that a large portion of this land is actually in Beacon Falls. When Rolling Hills conveyed the open space to the Town of Seymour as part of Phase I they also included this portion. Beacon Falls is taxing the Town of Seymour on this land and the town doesn't want to pay the taxes on it. If it is conveyed to the Land Trust they don't have to pay the taxes and they have agreed to take it.

**MOTION:** T. Lavranchuk/J. Jaffer, to recommend approval of the Sec. 8-24 Referral, transfer of 13.4 acres of open space Rolling Hills Estates Subdivision, Phase II to the Seymour Land Trust.  
**Motion Carried 4-0.**

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### **5. Sign Regulations**

Mr. Looker stated that he took the notes from the special meeting regarding the sign regulations and prepared a draft. He is waiting for any comments from Commission members.

**MOTION:** W. Birdsell/T. Lavranchuk, to table this matter to the next meeting.  
**Motion Carried 4-0.**

### **6. Blakeman Const LLC vs. Seymour Planning and Zoning Commission**

Mr. Yagovane read a letter from Attorney Fred Stanek notifying the Commission that a pre-trial conference has been scheduled for May 9, 2011 at the Milford Superior Court. A hearing on the subject appeal is scheduled for May 20, 2011 at the Derby Superior Court. The letter also requested that this matter be placed on the agenda of the May meeting as follows: Blakeman Construction, LLC vs Planning & Zoning Commission of the Town of Seymour: Pending litigation. It is anticipated that this matter will be discussed in executive session.

### **7. Zoning Enforcement**

The Commissioners reviewed the report from the ZEO. Mr. Paecht stated that he has been working on the signs that are illegally placed throughout the Town. He also stated that he has been looking at collapsed garages and notifies of the Building Inspector of these.

Mr. Bladwin stated that there are several unregistered motor vehicles on commercial property of the pawn shop and he does not have an auto repair license. He asked if he is allowed to have those parked there. Mr. Looker stated that these are under another ordinance and the owner has informed the town that he is acting as a broker for the owners of the motor vehicles. Mr. Yagovane suggested getting a legal interpretation from the town counsel regarding this issue.

### **8. Minutes**

**MOTION:** W. Birdsell/T. Lavranchuk to approve the minutes of the 3/10/11 regular meeting.  
**Motion Carried 4-0.**

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Mr. Baldwin asked when the last organization meeting was held and Mr. Looker stated that it was done every December but has not been done in a long time.

**MOTION:** J. Baldwin/J. Jaffer to schedule an organizational meeting in May.  
**Motion carried 3-1 with Mr. Birdsell opposed.**

**MOTION:** W. Birdsell/T. Lavrandhuk to adjourn the meeting at 9:00 p.m.  
**Motion carried 4-0.**

Respectfully submitted,

Maryanne DeTullio, Recording Secretary