

SEYMOUR PLANNING AND ZONING COMMISSION

REGULAR MEETING
7:00pm October 10th, 2019 NORMA DRUMMER ROOM

Members Present: Jamie Brennan, Joe Niezelski, Walter Birdsell, Joe Ziehl, Thomas Lavranchuk, Chris Bowen

Others Present: Staff, Earl Tucker and Counsel, and Matthew Miski

1. Call to Order

Joe Ziehl, the Chair, called the meeting to order at 8:53pm.

2. Pledge of Allegiance

The Chair stated the Commission already said the Pledge this evening.

3. Seating of Alternates

The Chair stated that they do not have to seat any alternates at this time.

4. Z.E.O Report

Bill Paecht stated that the Commission members had the Z.E.O. report front of them. Paecht stated that he had just finished consolidating the Wetland files into the Zoning files in the office, instead of having each department have its own filing system or filing everything under address, it is now filed with the wetland and zoning together, and the next part of the process will be to incorporate the conservation files. He asked if there were any questions from the Commission.

Commissioner Thomas Lavranchuk asked if this was a compilation of both the (wetland and zoning) departments?

Paecht responded that these are the permits but that he was just explaining to the Commission what he is doing beside this in order to consolidate the files by street address and instead of having them in four different spots in town hall, it will all be together and filed under street name. He states that this will save a lot of time on the part of the staff.

Commissioner Thomas Lavranchuk clarified that anything having to do with one piece of property would come out from one file instead of four different ones.

Mike Marganski says these files exclude building permits.

Paecht clarified that yes it would exclude building and fire permits.

5. Approval of Regular Meeting Minutes; Planning & Zoning September 12th, 2019

Chris Bowen commented that the only mistake he noted was a typographical error under the motion to approve the lot revision, it was noted as 4-3-0 when it should be noted as 3-0 because Mr. Brennan had

abstained because he had come in late that meeting. Instead of 4-3-0 with Mr. Ziehl abstaining, it should be 3-0-1 with Mr. Brennan abstaining.

The Chair seeing no other comments or concerns, asked for a motion to approve the minutes.

Motioned by: Jamie Brennan

Seconded by: Thomas Lavranchuk

Abstained: 1

Joe Ziehl: yes	Jamie Brennan: yes	Joe Niezelski: yes	
Walter Birdsell: Abstained		Thomas Lavranchuk: yes	Chris Bowen: yes

6-0-1

6. Public Comment

There was no public comment.

7. 8 - 24 Referral to Board of Selectman -128 West St. Proposed Sale of Residential Property

The Chair asked the staff for background on this property. Jim Baldwin stated that this is a 2 family residence that the Town took through a tax lean and so now it is town property and the BOS are now asking through the 8-24 referral this commissions endorsement to sell the property.

The Chair asked for any questions but stated that it seemed like a very routine referral and that essentially they are just stating back to the Board of Selectmen that this an appropriate use of town land.

Thomas Lavranchuk asked who was in charge of selling this land.

Baldwin answered that it was the Town of Seymour and that it would probably go to auction.

The Chair asked someone to make a motion.

Motioned by: Thomas Lavranchuk

Seconded by: Walter Birdsell

Abstained: none

Joe Ziehl: yes	Jamie Brennan: yes	Joe Niezelski: yes	
Walter Birdsell: yes		Thomas Lavranchuk: yes	Chris Bowen: yes

6-0

8. Food Truck or Mobile Vendor Regulation Proposal

Mike Marganski addressed the Commission that before the Commission was a sample in regard to regulations that communities similar to ours use for their Food Truck or Mobil vendor regulations. There is nothing overwhelming in the regulations, it simply defines what a mobile food vendor would be and most

of the requirements would be required by the Naugatuck Valley Health District. It also includes requirements for the site in case of bad players, there are some enforcement capability and can take into consideration a buffer if any areas within the CBD C2 LI2 or G2 were to adjoin against any residential or MF Zone at least there would be a 75 foot buffer to protect those areas. It mentions that any food vendors that would be attracted to events similar to those such as the Pumpkin Festival, a school function or school event, those vendors must have their licenses anyways, however, it would not prevent them from being against zoning compliance because it is just a one day event. There are some hours of operation mentioned which can be modified, but it there for the Commissions review and consideration.

The Chair asked if the Commission members have read the regulations or had any questions.

Walter Birdsell commented that he has a lot of feedback, how can they force the vendor to be open from 9am to 5pm? They cannot open up on a Sunday or a holiday? They have to have tables a certain amount of length apart from each other? People he has spoken with have stated that it is very ridiculous. There is only one food truck in the town of Seymour, why do they need regulations such as these?

Chris Bowen asked Marganski if these are just regulations that other towns had?

Marganski stated that these are a combination of other towns and a proposal for possible bad players that come into town and suggestions to the Commission. There are no hard and fast rule here, these are just regulations that came to mind in order to help the Town police what we have coming into Seymour. The hours of operation are certainly within the area of change that the Commission has, it was simply something another regulation that was found and shown to the Commission as an example. He reminds the Commission they requested him to put the regulations together about three months ago for September review. This was just something he put together so the Commission could review.

Chris Bowen asked if in Marganski's professional opinion he thought that the hours of 9am to 5pm were appropriate.

Marganski says he has no opinion.

Chris Bowen asked if he had an opinion on the number of tables.

Marganski said that he could not give his opinion.

Chris Bowen stated that he tends to agree with Mr. Birdsell that some of the restrictions are a little overboard even if other communities use them, but he is looking to reasons as to why the regulations are the way they are.

Jim Baldwin asked the Chair if he may address the Commission.

The Chair said yes.

Baldwin stated that when this was brought up a few months ago under code enforcement and regulations, the Commission debated about it, and requested some information on what other towns were doing and other standard information. Marganski is not offering any opinion and this is just a presentation of data that other towns are using, and in the end it will be up to the Commission to decide what is best for the Town of Seymour. If the Commission would like to send this out and have it reviewed farther, Keith (the town planner) can have it sent out and write a proposal, only if the Commission felt it was fit.

Bowen stated that his questions were not meant to be accusatory, just informational as the Commission goes to figure out what the towns regulations should be.

Birdsell stated that the reason he brought it up was because he received a lot of feedback. His wife even stated that it sounded like whomever wrote it up must've been anti-food truck. He believes the information is ridiculous.

Baldwin asked if Mr. Birdsell thought the information that was put together by Mr. Marganski, which he found by looking at information from other towns, is ridiculous.

Birdsell states that it is ridiculous.

Baldwin stated that was his opinion.

Commissioner Jamie Brennan said that he likes what was done, but they are just putting it up for review, so if Mr. Birdsell would like to change something in it, he can. Brennan stated that he read it and it made a lot of sense.

Bowen stated that he was the person who asked staff to look at this, so if Mr. Birdsell is upset with anyone it should be himself.

Mr. Birdsell said he is not mad, he is just conveying what he has heard from people in town. There is only one food truck in Seymour, so why do they need the regulations?

The Chair responded that the only thing that seems to interfere with the food truck operation would be the hours of operation and the no text dining room proceeding.

Mr. Birdsell said that and no Sunday's or holidays regulation interferes as well.

Mr. Brennan stated that the food trucks are taking away from the restaurants, who are established here and could use the business. Letting a free for all and food trucks come into town with no regulations is not good for business.

Mr. Birdsell stated that there are no food trucks trying to come into Seymour and that one truck has already been run out of town already.

The Chair stated that the Commission needs to be ready for bad actors. They do not want to interfere unreasonably with their hours or the tables, or Sundays, but this would give them the opportunity in case someone were to come in and did something obnoxious, they would be able to shut it down. He asked the Commission if they wanted to get into discussion about any specifics?

Jim Baldwin stated that they could hold a public hearing on it since it is technically a regulation change.

Mr. Brennan stated he thought that was a good idea because all the people could come and voice their opinion.

Baldwin stated that if they have information in the office about something that is code compliant, the office receives phone calls concerning them. So, this is just the staff bringing information to the Commission.

The Chair stated that they should make a motion to have a public hearing.

Bryan Nestirak reminded the Commission that there are a few public hearings coming up in the next few months.

Brennan stated that this isn't as important so maybe they could table it for now and bring it up at the next meeting.

Nesteriak asked if there was any specific direction that they would like staff to pursue.

Brennan stated he was fine with what was done and maybe the Commission will adjust the time or anything else of concern at that later time.

The Chair said all Commissioners could go home and read it and decide at a later time what needs to be changed and can inform staff.

Motion to table the food truck mobile vendor until the next meeting.

Motioned by: Thomas Lavranchuk

Seconded by: Joe Niezelski

Abstained: 0

Joe Ziehl: yes	Jamie Brennan: yes	Joe Niezelski: yes
Walter Birdsell: yes	Thomas Lavranchuk: yes	Chris Bowen: yes

6-0

9. High Ridge Estates Subdivision Expired and Abandonment (Tabled from 9/12/19)

Earl Tucker, current owner of the subject property, addressed the Commission and stated it was the 11-lot subdivision off of Warren Drive. He is here tonight in front of the Commission to ask them to accept the original A2 survey that was found in the archives, (a stamp and sealed copy of the survey was presented to the Commission). Tucker is also in front of the Commission to state that he has been in control of the property since 2002, has owned the property since 2008, has never taken a bond out with the Town to use a subdivision, never pulled a permit from the town, never cut down a tree and never moved a cubic yard of dirt on this property.

Thomas Lavranchuk asked if any trees have been cleared on the property.

Tucker responded no. He is here to tell the Commission that just to get this A2 survey it will cost him \$15,000 and at no fault of the town, it has been hundreds of thousand dollars getting approved. Over the course of the last 11 years, all the approvals and extensions have expired; he has paid the town over 184,000 in property tax for an 11-lot subdivision. He is simply trying to revert the property back to raw land. His neighbor next door pays \$7,000 an acre and he currently being valued at \$27,000 an acre. He is simply asking the town to accept the original map so it can be assessed as raw land.

The Chair asked what the Commission needs to do to make this happen?

Nesteriak asked that a newer map be prepared and asked how old this one is?

Tucker responded that it was March 2003.

Nesteriak asked who prepared that map?

Tucker responded that it was the Land Engineering Associates from Monroe.

Nerteriak told the Chair that he was trying to think of why the Town would have a problem with what he was asking and there wasn't much.

The Chair asked if Nesteriak wanted to look at the map.

Nesteriak said that he does not really need to, the map may be stamped and sealed but is no longer valid anymore so it is not really a problem anymore. It does not seem as though there is any liability on the town to let him reconsolidate these lots, the liability would be more on him. But it will be about 10 or 15 grand to redo a survey of this size. He does not believe there is any problems with this it might be more of a consolidation deed.

The Chair asked if anyone else had any questions.

Chris Bowen asked if Tucker could verify it was not Irish road?

Tucker said no it was all on Warren Drive.

The Chair asked for a motion to approve consolidation.

Motioned by: Joe Niezelski

Seconded by: Walter Birdsell

Abstained: 0

Joe Ziehl: yes	Jamie Brennan: yes	Joe Niezelski: yes
Walter Birdsell: yes	Thomas Lavranchuk: yes	Chris Bowen: yes

6-0

Counsel for Mr. Tucker asked what exactly they needed to do in order to enact this.

The Chair said it was the Counsel needed to figure out how to handle the property but just obtain a corrective deed.

10. Proposed Section 1 8 - Text Change (Tabled from 9/12/19 - Public Hearing is Closed)

The Chair asked where the Commission stood on this.

Kieth Rosenfeld stated that in the Commissions packet there is a memo from himself as well as a modified section 18, as well as a letter from Attorney Thomas asking to ask for an extension on the decision made tonight. Kieth Rosenfeld had no objection to tabling it to the next meeting and he does not believe his memo will change from now until then, and if the attorney has asked for it, it does not seem as if there is a reason not to grant that.

Chris Bowen asked if they were allowed to table this again even with the public hearing being closed.

Keith Rosenfeld said yes. The public hearing was closed and then the Commission went to the meeting to ask for an extension until the November meeting.

The Chair asked for a motion to extend it until November.

Motioned by: Walter Birdsell

Seconded by: Thomas Lavranchuk

Abstained: 0

Joe Ziehl: yes Jamie Brennan: yes Joe Niezelski: yes Walter Birdsell: yes
Thomas Lavranchuk: yes Chris Bowen: yes

6-0

11. #46 & #100 Roosevelt Dr. - Site Plan Application (Tabled from 9/12/19) Engineer Review

The Chair recluses and would like a motion to install Walter Birdsell as acting Chair.

Motioned by: Jamie Brennan

Seconded by: Joe Niezelski

Abstained: 1

Jamie Brennan: yes Joe Niezelski: yes Walter Birdsell: yes Thomas Lavranchuk: yes
Chris Bowen: yes Joe Ziehl: yes

6-0

Matthew Miski addressed the board as the engineer representing Mr. Mahoule. They are proposing a 3-building development onsite, including an upper residence, a winery, a tasting room, ice cream shop, and a lower residential and commercial building. As you can see from the display, there are large pockets of vine proposed on site. There is a cliff face in which they cannot plant the vines. He went through Mr. Nesteriak's latest comments including; 1) walkability along the site, horizontally they do have room for this but due to the wetlands in the area and the large hill, sidewalks would be restricted to just the front section of the site. Miski states that if someone were to walk up there, it would put the guard rail right up against the road with barely any space. There is not much room for them to put sidewalks in without major readjusting, however, if the commission would put them in the front of the site but across the road is the river and the regional water authority property, which will more than likely never be developed. Next to the site are residential homes, so the chances are in the future, sidewalks would be put in so they would get done that way. 2) the current project is in front of public health, they just finished with state testing and within the next week or two. The only changes in the plans summited at the last meeting is that there will be a grease trap for the winery built, which does not affect zoning too much. 3) if the Commission choses to go this route of the stone water maintenance program, there are copies for the Commission to review. It is all very standard; the underground detentions are cleaned and inspected as needed as well as the wetlands and the catch basins. The bond for soil erosion, if the Commission so choses to take this route, Miski's only request is to have the Commission inform he and his client about how they decide to choose the bond, would Mr. Nesteriak set it or would he come up with an estimate to then be presented to the Commission for approval?

Chair Birdsell asked if there were any questions.

Commissioner Thomas Lavranchuk asked if Bryan would figure out the bond situation?

Bryan Nesteriak responded that typically what happens is the engineer would submit the cost estimate and the Commission would either agree or disagree and come up with some agreement. Nesteriak says

that if this is the condition of approval, he can work something out as well as the maintenance program so there can be something sufficient in writing.

Chair Birdsell asked if the Commission was all set to approve this or not?

Nesteriak said that he would not instruct the Commission on how to vote.

Thomas Lavranchuck said he believes we are all set to approve this but upon the condition about setting the bond and the concerns that Bryan has.

Attorney Sullivan stated that these are the conditions should be set to the satisfaction of the Town Engineer, so when the Commission votes on this, it should be that Bryan Nesteriak has the final say on the bonding amount and the maintenance conditions.

Bryan Nesteriak added to his comment regarding the sidewalks, he made a bunch of changes in the route 34 zone walkability and a large part of the goals of the town, and because of this he does not agree with the engineer that it is difficult to put in a sidewalk on the majority of the site. He realizes that it will be the only sidewalk in the majority of that area; however, we are hoping that other sidewalks get put in.

Commissioner Lavranchuck asked if Nesteriak wanted the sidewalks to be concerned from one property line to another?

Nesteriak responded that as much as you can get, yes. He keeps putting it up, but ultimately it is in the commissions hands.

Matthew Miski asked if it would be a private sidewalk or a public sidewalk, because if it is on private property that is one thing but if it is on a state road they would have to go in front of the state to make sure everything is compliant.

Nesteriak responds with yes they will have to go in front of the state. Typically, it would be a sidewalk along the road or 5 feet off the road.

Commissioner Lavranchuk said that he was saying further off that road would be better.

Miski said they would have to speak to DOT and have them give them all the requirements for all they want.

Commissioner Lavranchuk said he was saying you want it to be a private sidewalk.

Nesteriak said no he would think it would be within the right of way.

Miski said that it would fit along the road and as the road curves the distance from the property line would change.

Lavranchuk said that what he thought Bryan was saying was they should go from property line to property line and just see what is involved.

Miski said he will try, but there is one specific area where it gets very tight around the culvert. He will submit everything to Bryan for review. There is also another specific area where the grading in the road goes from the road to a very deep slope very quickly.

Chair Birdsell said that it would be there responsibility to maintain that.

Miski said correct it was.

Birdsell said even in the winter to shovel and maintain it.

Miski said yes just like any other sidewalk.

Motion to approve conditional upon setting the bond that is subject to the town engineer approval, concerns of the town engineer, the site redevelopment, preparation of storm water maintenance plan will be reviewed by the town and approved by the town engineer, posting a bond for soil measures in an amount the will be reviewed town and approved by the Town Engineer, and side walk is approved as far as possible.

Motion: Thomas Lavranchuk

Second: Joe Niezelski

Abstained: 0

6-0-0

Jamie Brennan: yes Joe Niezelski: yes Walter Birdsell: yes Thomas Lavranchuk: yes
Chris Bowen: yes

Chair Birdsell asked for a motion to reinstall Joe Ziehl as Chair.

Motion: Joe Niezelski

Second: Thomas Lavranchuk

Abstained: 0

6-0

Jamie Brennan: yes Joe Niezelski: yes Walter Birdsell: yes Thomas Lavranchuk: yes
Chris Bowen: yes

12. Bladen's Ridge Affordable Housing Development

The Chair announced that they are currently in public hearing on this item and have already set a date for continuance on Nov. 18th.

Attorney Sullivan asked if the site plan was submitted?

The Chair answered yes.

Attorney Sullivan stated that it is not on the agenda but if the Commission would like to add that they are accepting the site plan application for this item, they could do so and then set it for a public hearing.

The Chair asked what discretion they had not to do this.

Jim Baldwin stated that the application was filed and they have made applications to the wetlands Commission, and that was the preliminary thing they had to do so they have met their requirements for the application, therefore, the application is complete.

Thomas Lavranchuk stated that he thought they had told the public that the Commission would not be discussing the site plan application.

Jim Baldwin stated they are not discussing the site plan, but putting on the agenda would make it so they can discuss it at the next hearing.

Attorney Sullivan stated that they now have a site plan application that has been submitted to the office, it is not on the agenda but since it is a regular meeting, they can make additions to the agenda with consent from the Commission. If they are looking to accept this site plan application and then send it to a public hearing where it can be discussed.

The Chair asked if there is any reason they should not accept it.

Chris Bowen asked just to confirm, if they accept the application that means that we have to set the meeting for next month?

Attorney Sullivan stated no but it would be 65 days from today. If it is their normal process to accept their application once filed, they should accept this.

The Chair states that it is his understanding that once the Commission has accepted an application, it has been filed.

Jim Baldwin stated they have a site plan application in front of the Commission that has met all the requirement, so it is in front of the board for the action to look at the application, hear from the applicant, and then set their public hearing.

Thomas Lavranchuk stated that he is going to suggest that they set the public hearing.

Walter Birdsell stated that he thought they had already set the public hearing date at the public hearing earlier this meeting.

Thomas Lavranchuk stated that he would make a motion to add to the agenda the site plan of the site map for Bladen's Ridge.

Second: Joe Niezelski

Opposed: Walter Birdsell and Jamie Brennan

Abstained: Chris Bowen

3-2

Jamie Brennan: no	Joe Niezelski: yes	Walter Birdsell: no	Thomas Lavranchuk: yes
Chris Bowen: abstain	Joe Ziehl: yes		

Site Plan Application for Bladen's Ridge

The Chair stated that he was not sure how to go forward with this.

Bryan Nesteriak stated that it was up to the Commission to decide what they would do next if that is go to a public hearing.

Motioned by Thomas Lavranchuk to set a public hearing for the site plan application for Bladen's Ridge.

Second by Walter Birdsell.

Attorney Sullivan stated that there might be implications that the Commission is currently in that have to do with the new regulations.

Thomas Lavranchuk stated that everything that was commented on today at the public hearing was more so about the site plan than the text and zone change.

Attorney Sullivan stated that they might want to set their public hearing down the road so that there is a sense of where they are going with the other.

The Chair asked what the Commissions time restraints were.

Jim Baldwin stated that they had 65 days from today.

Lavranchuk stated that they should choose their December meeting to hold the public hearing.

December 12th at 6:30pm will be the public hearing.

It was already motioned and second.

Jamie Brennan: yes	Joe Niezelski: yes	Walter Birdsell: yes	Thomas Lavranchuk: yes
Chris Bowen:yes	Joe Ziehl: yes		

6-0

13. Correspondence

There was no correspondence.

14. Adjournment

Motioned by: Walter Birdsell.

Second by: Thomas Laavranchuk

6-0

Jamie Brennan: no	Joe Niezelski: yes	Walter Birdsell: no	Thomas Lavranchuk: yes
Chris Bowen:yes	Joe Ziehl: yes		