

**Seymour Planning and Zoning Regular Meeting**

**November 14, 2019**

**Minutes**

**Members Present:** Joseph Ziel, Walter Birdsell, Tom Lavranchuk, Jamie Brennan, Joe Niezelski

**Members Absent:** none

**Others Present:** Jim Baldwin, Keith Rosenfeld, Mike Marganski, Bill Paecht, and members of the public

**1. Call to Order**

Called to order at 8:13pm.

**2. Pledge of Allegiance**

Already stood for the pledge earlier.

**3. Seating of Alternates**

No alternates.

**4. Z.E.O Report**

Bill Paecht gave an update on the organization of the office and working on installing pools.

Jamie Brennan asked if people were putting in pools at this time of year. Bill Paecht stated that they sold more pools in January than they did most of the other times of the year because contractors are available.

**5. Approval of Public Hearing Meeting Minutes; October 10th,2019**

At the end, 8 lines out – “interm”

Tom Lavranchuk made the motion with the correction.

Second by Joe Niezelski.

5-0

**6. Approval of Regular Meeting Minutes; October 10<sup>th</sup> 2019**

The number of votes should be changed from 6 to 0 to 5 and 0.

Motioned by Walter Birdsell.

Joe Niezelski second.

5-0

**7. Public Comment**

No public comment.

**8. Proposed Section 18 - Text Change (Tabled from 10/10/19- Public Hearing is Closed)**

Keith Rosenfeld stated that when the text change was introduced by the applicant and the public hearing had ended, at that time he worked with staff to make the application better. He believed that it is part of his role to sometimes modify an application to better suit the town. Jim Baldwin and himself reviewed the text change and offered that they would support the text change with a number of amendments that the staff would offer to the applicant. Those amendments were five things;

Changing the parcel size from 20 acres to 15 acres

Height of all residential buildings from 45 feet to 35 feet

Roadways must accommodate a sidewalk and a snow shelf in order to allow movement within a site plan

Open space should be allocated in the best manner, to allow the Commission what types of open space, the number of acres, the amount of wetlands, usable and non-usable space

Clarified the number of required parking spaces and their building setbacks

Keith Rosenfeld pointed out where these amendments are in the packet for the Commissioners and reminded them that these amendments were all made to make the application work better for Seymour. He pointed out for open space to be a greater percentage than 20% of the wetlands non-wetlands soil, and at the end it gives the Commission the opportunity in the section to look at the property to see if there is more or less open space that it needed for this development. It lets the Commission review development case by case and have the flexibility to ask for open space at various levels. Staff asked for an increased amount of parking because this is an area where there might be teenagers or 3 or 4 cars to one unit as well as visitor parking. Rosenfeld determined that spaces designated as reserved spaces would be constructed in the adequate size and grade and provided as reserved spaces. This will be shown when a site plan is given. The last thing that was looked at was providing for a setback of 25 feet from each other and the curb and 35 feet from all parcel boundaries. This mimics the multifamily housing regulations. All elevations with floors of each proposed unit (as well as the clubhouse recreation building) this provides the Commission with the alternatives to the original amendment and act in a method that is more acceptable.

The Chair asked what the time frame is to make a decision on this.

Keith Rosenfeld stated they have to make a decision tonight.

Walter Birdsell stated he did not see this in the regulations at all.

Keith Rosenfeld stated that this is not in the regulations and this is a new land use regulation.

Walter Birdsell stated he wanted to know who proposed this.

Keith Rosenfeld said that it was proposed by the applicant Mr. Thomas and Mr. Migani.

Jim Baldwin said that the applicant was represented by counsel in front of the Commission three months ago, there was a public hearing and a continuation of a public hearing which was then closed. This brings us to today where the Commission must make a decision.

Walter Birdsell said it was nice of Mr. Rosenfeld to make up a regulation to suit the applicant.

Keith Rosenfeld stated that he did not make the regulation to suit him.

Walter Birdsell said the applicant was the one making the regulation to suit himself.

Keith Rosenfeld responded that he can make the regulation to suit him, but staff has made modification to be more palpable to the community. He reminded that he is not here to advocate for the applicant at all, just to advocate what is best for the town.

Tom Lavranchuk reminded Walter Birdsell that the Commission has been discussing these changes for a while now and last meeting everyone basically agreed on it, but they asked the staff to review it and make the changes they felt necessary which they did a good job of.

Walter Birdsell said that as a Commissioner he had a choice to ask questions.

Tom Lavranchuk said that he was not stopping Walter from doing that.

Walter Birdsell said Tom was and he can ask another question if he would like.

The Chair stated that the question should be something other than "we do not like the way he is doing it".

Walter Birdsell said that he does not believe its fair that he gets to change the regulation to suit him.

Jim Baldwin reminded them that this regulation does not even exist yet. This is a text amendment and the Commission is acting as a legislative body in approving, accepting, or introducing this text amendment into the regulations.

Walter Birdsell stated that this would never happen if the applicant had never brought it up.

Jim Baldwin stated that it was his right to do that, the applicant is applying to the planning and zoning commission for the text amendment that he through his attorney had produced. The Commission heard it, heard the public hearing and comment, and instructed staff to review and or modify to the commission members. The first mention was the 15 acre change, which was brought up by Commissioner Bowen, it was discussed and decided why limit it to sites that were 20 and it has to do with a net 0 energy use of a building. Roadways were discussed, open space was discussed and how it would be used and decided that the Commission would have much more discretion on open space.

Tom Lavranchuk stated that all these had to do with energy efficient homes.

Jim Baldwin responded that yes, the concept of the text was to allow a development of net 0 energy use and allow the developer to be able to arrange and conform to that.

Tom Lavranchuck said this was correct and it would also be helping create less impact on the town.

Jamie Brennan asked if this was in the R40 Zone.

Jim Baldwin said yes, the goal of the CEE is to develop large parcels in the R40 area in the manner it preserves natural features, protects environmental areas, provides buffers in existing single family homes and promotes market rate affordable residential options that are highly energy efficient.

Jamie Brennan said that building height as laid out in the zoning regulations are laid out at 38 feet, are these home going to be energy efficient will there be more flat roofs so they can benefit solar to look straight up?

Tom Lavranchuk said that if anything they would need more of an angle than a flat roof to benefit solar power.

Jamie Brennan said that if it is flat you could get them to the best height as opposed to turning, because you only get half a day of sunlight.

Jim Baldwin responded that it is a text amendment so it does not have design designation or architectural features being proposed. That would be something that would be addressed when the site plan comes in. There are many options when it comes to energy efficiency, it could be roofs or ground.

Jamie Brennan stated that he said he was talking about maximum height of building when something like a solar pannel gets put on top.

Jim Baldwin stated there has been no determination made about solar. So to answer his question it is not defined.

Jamie Brennan asked if it was too late to define it now.

Tom Lavranchuk said that to him, structure would be defined as whatever is on the roof.

Jim Baldwin stated that right now the Commission is reading exactly what the text is. This particular question is not defined in the text. The Commission cannot define something that has not been laid down in a text.

The Chair asked the staff if there was a problem with the vagueness of the text.

Keith Rosenfeld responded no, because when the plans would come in individually it would be defined then.

Jim Baldwin said that it is a town wide regulation, whether it pertains to someone who might want to use an area that may be better to have a low slope roof or a high slope roof.

Tom Lavranchuk added that it could also be put on the ground, like they discussed before.

Jamie Brennan said he was just talking about setting a maximum height overall based on the separation of buildings.

Counsel Pat Sullivan stated that some towns have regulations in regards to mechanicals on rooftops for example, if there is an air conditioning unit that is rooftop, the town either count that or you do not count it. But in her opinion however you treat other mechanicals on rooftops in town, that is how they should treat a solar panel on the roof.

Jim Baldwin stated that Bryan Nesteriak pointed out two things. Height of building is defined as the variable distance measured between the average level where the finished grade meets the walls at a point Midway between the highest and the lowest point of the roof. A structure is defined as anything constructed at a location on the ground bar attached to a structure of the location on the ground.

Bryan Nesteriak stated as a point that there is a lot There is a lot of vagueness in these regulations that the staff is trying to work on.

Tom Lavranchuk stated that to put it into layman's terms, they could call it mechanical.

Jamie Brennan stated that The definition only states that the measurement goes halfway up the roof. If there's solar above that it would not be measured.

Brian Nesteriak stated that it would be measured from the top of the solar panels instead.

Jamie Brennan then asked that because this is concerning multi-family homes why doesn't it include anything concerning sewer or water?

Bryan Nesteriak said that there wasn't anything proposed in this particular text concerning sewer or water.

Jamie Brennan and then said he knew that there wasn't anything proposed.

Jim Baldwin said it wasn't part of their proposal, but it will go to health code requirements and be forced to meet certain regulations regardless of this text.

Keith Rosenfeld said if they cannot get water on the site and Aquarion doesn't approve it, then they do not get water on the site. If they cannot get a sewer there, and they are going to need to put in a septic system as required by the health department and if they do not prove that, and it is too small to contain the septic system, they're not going to get Health department approval.

Jamie Brennan asked if they are denied, can they moved the septic system into the open space portion of this proposal.

Keith Rosenfeld stated no that would be for open space purposes only not for any community septic system.

Jim Baldwin stated they did not have to regulate the health code.

Jamie Brennan stated the only other suggestion he had was concerning the roadways and the sidewalks should be forced to include a portion concerning the snow shelf.

Keith Rosenthal said that it needed to have a sidewalk and a snow shelf. There is a part of the regulations that make not mandatory.

Tom Lavranchuk made a motion to approve the proposed text change as stated by Mr. Rosenfeld and the letter that was given to the record.

**Vote 2-2-1**

Tom Lavranchuk- yes     Joe Ziehl- abstain     Walter Birdsell- no     Jamie Brennan- no     Joe Niezelski- yes

Jamie Brennan stated that he thought it should've stayed at 20.

Jim Baldwin said that he should discuss that with the commission members, they were the ones that changed it.

The Chair said they did not file an approval what can they do at this point?

Pat Sullivan asked if there was anything they could modify in this text change to approve it.

Tom Lavranchuk motioned to open the discussion back up.

Joe Niezelski seconded.

Walter opposed. Joe Ziehl abstained.

The Chair asked what they could do as a commission to change this and approve it.

Walter and Jamie both responded "nothing."

The Chair asked why.

Walter responded that he just did not like it.

The Chair asked if he would accept kind of answer in any argument. If Walter had wanted something or did not want something and the chair responded with he just did not like it, it would be unacceptable. What is it that Walter does not like about it?

Walter Birdsell responded with he does not like the changes from 25 to 15 feet.

The chair asked what number works for him.

Walter Birdsell responded he liked it the way it was at 20.

Tom Lavranchuk asked Walter if he knew why the Commission changed it to 15 feet.

Walter said that this was his opinion and this was his answer.

Tom asked again if he knew why they changed it in the first place.

Walter responded with he does not need to answer, he just likes it the way it was.

Tom said the reason why they changed it to 15 was to open it up tomorrow people in town and to make it more accessible.

Walter said Tom asked for his opinion, and this was his opinion.

Tom asked if they moved it back to 20 would Walter be in favor of it?

Walter responded that he might but he did not know.

Tom said he could not do "I might". He must know one way or the other there is no "might".

Walter said he probably would.

Tom said probably would is not answer.

Walter responded that he isn't answer, and by the way it could mean yes.

Tom responded that it could also mean no.

Walter said if he wanted an answer they could change it back to 20 acres and he would probably vote yes.

Tom responded that "probably" does not hold up in a court of law.

Walter responded that they are not in a court of law.

Jamie Brennan said if it moved back to 20 acres he would vote for it.

Tom Lavranchuk made a motion to modify section 18 text amendment to improve the modifications with the amendment of going from 15 acres to 20 acres.

Joe Niezelski seconded.

**4-0-1**

**Joe Ziehl- abstained   Joe Niezelski- yes   Tom Lavranchuk- yes   Walter Birdsell- yes   Jamie Brennan- yes**

Tom Lavranchuk made a motion for the text change of section 18 as modified.

Joe Niezelski seconded.

**Joe Ziehl- abstained Joe Niezelski- yes Tom Lavranchuk- yes Walter Birdsell- yes Jamie Brennan- yes**

**9. Bladen's Ridge Affordable Housing Development-Continuation of Public Hearing**

**Text Change**

**Zone Change**

Tabled to next meeting.

**10. Site Plan-20 New Haven Road; Proposed garden and landscape yard**

Jim Baldwin said there were applicants for the site plan 20 New Haven Rd. in attendance.

Walter Birdsell stated they were not on the agenda.

Jim Baldwin handed out an updated agenda to Walter and other commission members without an updated agenda.

Walter stated that he thought this was not good time to hand out an agenda, at the end of the meeting.

Jim Baldwin said there was not a difference because it was on the updated agenda.

Walter said that doesn't count because it's not on the agenda.

Jim Baldwin pointed out where was on the agenda.

Walter said this is not what he received.

Jim reminded him that they can add to the agenda.

Counsel Pat Sullivan said if it is a regular meeting they can add to the agenda you just have to have a vote.

Walter said that he should've received it in the beginning of the meeting.

Pat Sullivan said they are going to have a vote and they are going to add it to the agenda.

Walter said they should've brought it up in the beginning of the meeting.

Jim Baldwin thanked Commissioner Birdsell and said he will remember to do it next time.

Walter said he was tired at the same old stuff every time, to have all the papers in the beginning of the meeting.

Jim Baldwin said if Walter had an issue with any of the staff he could take it up with the Selectman.

**Motion to add #10 to agenda by Tom Lavranchuk.**

**Second by Joe Niezelski.**

**Passed 5-0**

Jesse Judson approached the Commission and stated that the application is for proposed garden landscape yard that specializes in seasonal sales and delivery of garden and landscaping products including plants, nursery stock, and dirt products including mulch and stone. The site is at 2.18 acre parcel located in the C2 commercial district products are allowed in this zone according to the zoning regulations but is subject to a site plan approval. The original site plan was approved back in 2008 which included the grading of the site along with the site being used for landscape material storage. At that time the driveway entrance and the storm water connection was approved by the Connecticut DOT the post modification keeps the driveway essentially in the same location, the driveway is moved up the hill a little to be directly opposite the driveway of Webster Bank and that was per recommendations made by department of Transportation. The driveway is going to enter the site and the applicant is proposing a parking area for eight cars. Located directly behind that there'll be a 16 foot by 24 foot sales shed, and separating the shed and the parking area will be an ornamental fence. On either side of the sales shed will be display areas for plants. In the rear of the property, along the back property line, is the proposed area for the bulk storage for the month mulch and soil etc. This product will be available for retail sale so customers can come in and purchase mulch and bring it home or if they do not have a way to transport there will be a delivery service available. In the back corner the property, the applicant is proposing a parking area for site and service equipment as well as mowing equipment. Currently on the site, there is an assistant sediment trap on the west side of the site. Along the back of the property, there is diversion that diverts all the run off to the west side of the site. The sediment trap is been in place and working flawlessly for the past 10 years, in the proposed application they are asking to enlarge and reshape it. It will still act as a sediment trap. It will also function as a detention basin which will holds run off water and flow after a series of catch basins and manholes in connection with the existing storm system. They're hoping to get the tree stock in place before the winter freeze.

Walter Birdsell asked if in the front they would have any plants near route 67 like they did in their other application?

The applicant responded that the display area in the trees for sale will be in the display area near the front. DOT will not let them put trees in the right-of-way, and no they would like people to see the trees from the front. They're not proposing it to be along route 67.

Tom Lavranchuk stated he thinks this will be a good business for the town and it will look good.

Jim Baldwin stated they had no review of the site and it has not moved through the department yet. They're seeing it for the first time as the commission and seeing it.

Walter Birdsell asked if they had to do any landscaping or regrading like they did the last time.

The applicant responded no, just a slight regrading for the driving entrance, the relocation of the diversion in the back, and minor reshaping of the pond.

Walter Birdsell said he is just asking because last time they dug to China.

The applicant said there is just the minor regrading of the driveway.

Tom Lavranchuk asked if it was flat coming off of the road.

The applicant said it drops down a little bit but the access is narrow so they need to widen it out a little and the largest gap they have to fill is maybe 2 feet. At one point right behind the street line the existing grade is 162 and the current driveway is 164 so it has to come up 2 feet at the deepest point.

Walter said this application looks good to go the way it is now.

Tom Lavranchuk asked counsel if they needed to come resubmit the site plan.

Jim Baldwin stated that they haven't run it by each department yet but they will do that soon.

The Chair asked to table this to staff.

Walter Birdsell made a motion to table.

Joe Niezelski second.

**Passed 5-0**

11. Correspondence

None.

12. Adjournment

Tom Lavranchuk made a motion to adjourn.

Walter Birdsell seconded.

Passed 5-0