

**PLANNING & ZONING COMMISSION
TOWN OF EAST HADDAM
LAND USE OFFICE
REGULAR MEETING MINUTES
January 8, 2013
(Not yet approved by the Commission)**

1. CALL TO ORDER: Mr. Brownell called the meeting to order at 7:15 p.m. at the Town Grange.

2. ATTENDANCE:

COMMISSIONERS PRESENT: Cary Brownell – Chairman, James Curtin (regular member), Ed Gubbins (alternate member), Kevin Matthews (regular member), Jessica Stone (alternate member), Harvey Thomas (regular member), John Matthew (regular member), Louis Salicrup (regular member)

COMMISSIONERS ABSENT: Bernard Gillis (regular member)

OTHERS PRESENT: Approximately 15 townspeople were present.

Mr. Brownell appointed Ms. Stone to vote in place of Mr. Gillis

3. MINUTES

The minutes of the December 11, 2012 meeting were reviewed and the following change was made:

- Beginning on page 4, change the name “Gordon Sima” to “Gordon Sime” where applicable.

The minutes were accepted as amended.

4. BILLS

Suburban Stationers	\$198.13
Hartford Courant	100.28

Motion by Mr. Curtin to pay the bills as presented, seconded by Mr. Matthew, and carried by unanimous vote.

5. ACKNOWLEDGEMENTS AND SET HEARING DATES

**A) Application 13-01, Rodney Davis, Green Village Heights, Grove Street,
Special Exception Review for a 33 unit retirement community. Assessor’s Map 55, Lot 126.
First date: January 8, 2013 Last date: March 13, 2013**

Some discussion ensued as to whether or not this was an application for renewal or a reapplication. It was determined that this is a reapplication of a previously approved application. The renewal period has expired and for that reason, Mr. Davis has to begin the approval process again as a new application.

The Commission questioned if there have been any regulation changes since Mr. Davis's last (2009) reapplication, i.e. lighting, buffering, and mylar filing. If so, the applicant would be required to comply with those changes.

Motion by Mr. Curtin to set a public hearing date of February 12, 2013 to hear Application 13-01, Rodney Davis, Green Village Heights, Grove Street, Special Exception Review for a 33 unit retirement community. Seconded by Mr. Matthew and carried by unanimous vote.

It was noted that a field walk would be scheduled following the February 12th public hearing.

Motion by Mr. Curtin to change the order of business, seconded by Mr. Matthew and carried by unanimous vote.

7. DISCUSSION

Mr. Brownell distributed to the Commission a letter received in the Land Use Office from the DEEP pertaining to the open space grants. He also handed out the latest draft of the Right to Farm Ordinance from Attorney Poliner.

The Commission tabled the discussion of the Right to Farm Ordinance until the next meeting so that all members would have the time to read it. Mr. Thomas explained that the ordinance was here for their review and possible input, but ultimately, the decision lies with the Board of Selectmen.

It was noted that it is time for the annual review of the Plan of Conservation and Development with the Town Boards and Commissions. Notices must be mailed out for the February 26, 2013 Planning and Zoning Commission meeting for the annual review.

A) Minimum Buildable Square

Mr. Curtin briefly updated Mr. Brownell as to what was discussed at the last meeting regarding minimum buildable square.

Mr. Curtin explained his concern using the soil-based method for determining the minimum buildable square that Killingworth currently uses. He stated that he hesitates to go to a whole other concept; he feels that it is really making it more complicated than it actually is. He feels that the Commission could actually stick with the same concept that is used now for a minimum lot in whatever zone, other than the 1/2 acre zone. If you cannot meet the minimum buildable square for the lot, then you will have to have an additional acre. He said it is like a "relief valve". This would be much simpler than rewriting the regulation. The Commission discussed Mr. Curtin's proposal.

B) Gateway Height Regulation

Mr. Brownell explained that the Commission is waiting for the height regulations from the Gateway Commission.

C) Blight Ordinance

There has been no new work on the blight ordinance due to the holidays and staff illness.

D) Other

Nothing discussed

8. ZEO REPORT

Mr. Ventres was not present at this meeting, therefore, there was nothing to report.

6. PUBLIC HEARING

Mr. Matthews read the call for the following public hearing:

**A) Continued: Application 12-17, Jeffrey Naples, 119 Sillmanville Road
Special Exception Review, to subdivide, under Section 8.1.4 of the East Haddam Zoning
Regulations, a preexisting non-conforming lot with four existing houses and to convert the
structures to year round residences. Assessor's Map 74, Lot 4.
First date: December 11, 2012 Last date: February 13, 2013**

Attorney Jezek, representing the applicant, Jeffrey Naples, joined the Commissioners at the table. He stated that they had received approval from the Inland Wetlands and Watercourses Commission and that they received a letter via email from the Chatham Health District. Attorney Jezek stated that at the previous meeting the Commission asked about an easement for the existing drainage pipe and a declaration for the wetlands area; he told the Commission if approved, that the applicant would do as requested.

Mr. Brownell read both letters into the record.

Mr. Brownell stated that according to the CHD letter that perc tests still needed to be performed.

Mr. Jeffrey Naples, the applicant, stated that perc tests were done, but they were being redone on Wednesday the 9th.

Mr. Brownell informed the Commission that they would have to wait for the new perc tests before rendering a decision. He also stated that there had been a concern with a neighboring well and the distances. Since the last meeting, it has been determined that the distances were satisfactory.

Some discussion ensued pertaining to types of buffering to the road.

Mr. Matthew asked about the nature of the existing non-conforming use. Attorney Jezek explained that There are four buildings on one property. There are no provisions in the regulations for that except Section 8.1.4 of the Zoning Regulations which allows for the division of the property for a separate lot for each building as close to conformance with the regulations as possible while at the same time being in compliance with the public health code. The applicant is able to create three lots, one with two buildings to remain on it. The reason for this being the impact of the pipe that runs down the middle of the lot. There are additional requirements for the septs from that pipe.

Mr. Matthew asked for clarification regarding seasonal cottages. Attorney Jezek explained that all the buildings are seasonal structures. The buildings are unoccupied at this time.

Mr. Matthew stated Section 8.1.4 *allowed* them to separate the buildings, but did not *require* them to do it. He stated that The Commission was required to make the *least* non-conforming circumstance.

Attorney Jezek stated that the applicant did not have to meet the regulations, they just have to get as close as possible with the exception of the public health code.

Attorney Jezek stated that the size of the buildings and the lot sizes meet the requirements for seasonal to year round conversion.

Mr. Matthew told Attorney Jezek that he understood what the applicant's intent is, but that the Commission has an obligation to consider the character of the neighborhood. He questioned if this proposal was consistent with the character of the neighborhood.

Mr. Curtin explained that they exist already as seasonal structures, but in order to convert to year round, improvements will have to be made. He said that the regulations are written so that cottages that meet the public health code and zoning requirements can be converted.

Mr. Matthew stated that he saw it differently. He felt that the regulations were written so that a project such as this could not be done.

Mr. Brownell stated that this same type of circumstance has occurred countless times in this Town; that is why the regulations were written.

The Commission discussed this issue at length.

At this time, Mr. Brownell opened the hearing to the public.

Cynthia Deming, 108 Sillmanville Road, asked if it was typical of an applicant to apply to modify existing structures while at the same time, intend to subdivide. She stated that it is her opinion that the Chatham Health District clearly understands that the fourth structure is not a domicile and was never intended to be one.

Mr. Brownell explained that according to the Assessor's records, the fourth building, along with the other three are considered a "habitable".

Mr. Matthew argued that if the fourth building was never a residence in the first place, then it cannot be converted from a seasonal residence to year round residence, as it was never a habitable structure.

Ms. Deming argued as to how a structure that had no bathroom, bedroom, etc. could be considered a residence.

Mr. Brownell reiterated that he was going by what the Town's Assessor's cards had the structures listed as.

Anthony Valentino, 108 Sillmanville Road, stated that this project is not fitting with the character of the neighborhood. The adjacent properties have much more acreage than this proposed subdivision. He felt that it was going to definitely impact the neighborhood negatively. He informed the Commission that they would "lawyer up", if necessary.

Ms. Deming stated that by the removal of all of the trees on the property that the character of the neighborhood has been changed and "putting up a split rail fence will not put back what has been taken away".

Mr. Brownell pointed out that all of the lots meet the acreage requirements for the zone.

An unidentified gentleman questioned if 150 feet of road frontage is required, how the applicant is getting away with "chopping" up the property the way the applicant is proposing to do, when the property only has a total of 375 feet of road frontage.

Mr. Brownell responded by saying that is where Section 8.1.4 of the zoning regulations comes into play. Due to the mills and resorts that were a big part of this area in the early to mid 1900's, small homes, in close proximity to each other were built for millworkers and their families. Resorts built many small cottages on their properties to house their vacationing guests. When the mills and resorts left the area, these homes were left and were used as year round residences or seasonal structures. For this reason, zoning created Section 8.1.4 so that the buildings and land could be subdivided to create separate properties.

Mr. Matthew argued that these particular buildings are not mill house or resort houses. Mr. Brownell responded that they still fall under this zoning regulation.

An unidentified gentleman, stated that he knew the applicant, Mr. Naples and that he was a reputable builder, but once Mr. Naples completes this project he will sell the properties and then he will lose control of the properties and how they will be maintained. He felt that they would be low valued houses. He questioned why Mr. Naples did not take all of the existing buildings down and just build one \$300K - \$400K home. He felt that Mr. Naples would make the same profit, possibly even more perhaps.

Mr. Brownell stated that it is not up to the Commission to point a developer in a particular direction; the Commission can only look at what is before them and determine if it meets the regulations.

The gentleman replied that he has been in construction all of his life and he has never seen two houses on one house lot.

Ms. Deming asked that all of the Commissioners drive down to the area and assess the neighborhood. She said that it is becoming a slum. She said that there are property owners in the area that are making attempts to keep their properties up. She feels that they are not going to be able to maintain their property values by building "four little tiny houses across the street". She expressed her concern about the buffering between the subject property and her home. With all the trees removed, the four houses are clearly visible. She does not want their light shining onto her property.

Mr. Matthew read Section 8.1.4 of the zoning regulations into the record. He stated that, according to the regulations, the Commission "may" or may not, regardless of whether or not they comply, approve the application.

Mr. Thomas stated that each house would be situated on more than one acre of land. He felt that to say that each of the buildings were going to be small, useless shacks is to presume something that the Commission is not in any position to presume.

Ms. Deming asked if the applicant was planning to increase the size of the houses. The Commission saw no sign of expanding the footprint of the buildings.

Attorney Jezek clarified that the houses will have two bedrooms each, but the septic systems have to be designed for a three bedroom home, according to public health code. All the houses will be in excess of 1000 square feet.

Mr. Valentino stated that perhaps there was an option that would be satisfactory to all parties. They would like to see three homes rather than four.

Ms. Deming asked if the Commission had the right to suggest an alternative. She asked if the Commission could deny the application as presented.

Mr. Brownell responded that the Commission could deny the application without prejudice.

Mr. Matthew stated that the Commission cannot tell the applicant what to present; what the Commission can do is recognize is that an applicant that came to them with this project would certainly be allowed to divide this property into three parcels because it would meet all of the zoning requirements for that zone.

Mr. Thomas asked if it would make a difference if the parcels could not be seen, Mr. Matthews felt that it would make a big difference. He said with the land cleared, he felt it looked terrible and that it cannot remain that way. He felt that buffering was necessary,

Mr. Jeffrey Naples, the applicant, stated that the house that they are referring to as a dining hall was a house previously. He said that Mr. Ventres had done some research. He also told the Commission that the trees that were taken down were for the power lines because one house fed another house which fed another house which fed another house. It was a fire hazard, so he rectified that situation. He said that when the project is completed that he doesn't think that anyone will have a problem with it. He did not want to put trees all in front because they will be rental properties and he likes to drive by to check to make sure that they are being maintained. He asked the neighbors to let him finish the work. He will not be renting to just anyone. This is money that he is investing; they will not have the problems with the new renters that they did previously.

Mr. Begin stated that he had two people that could verify that the "kitchen" was never attached to the big house that burned down. It was always just a kitchen. He felt that it was no different than a chicken coop or an outhouse.

Mr. Brownell stated that the application would have to be continued to the next meeting because the Chatham Health District was looking for additional testing.

Ms. Deming asked if they were going to be rental properties, why they had to be subdivided.

Attorney Jezek stated that they could be rental properties, or his client could sell them as condominiums, but at some point, he might like to do is sell them individually. He stated that his client was already doing work on the houses to convert them to year round structures, as he had the right to under the regulations. The properties meet the public code and acreage requirements for the conversion.

Motion by Mr. Thomas to continue Application 12-17 to the January 22, 2013 meeting. Seconded by Ms. Stone and carried by unanimous vote.

Mr. Matthews read the call for the following public hearing:

**B) Application 02-12, Noreen Blaschik, EH Moodus Road, Subdivision
Review for a proposed 2-lot subdivision, Special Exception Review, for an interior lot and a proposed lot
line revision. Assessor's Map 45, Lot 2.
First date: January 8, 2013 Last date: March 13, 2013**

Ms. Stone left the meeting at 9:00 p.m.

Mr. Gubbins recused himself from this application.

Mr. Brownell confirmed with Attorney Jezek that this was a new application and that abutting property owners were legally notified by certified mail, return receipt.

Roger Nemergut, P.E., representing the applicant joined the Commissioners at the table. He explained that there were actually three separate applications before the Commission; 2-lot subdivision, special

exception for an interior lot, and a proposed lot line revision. He explained that the applicant is proposing to create two new lots from the existing lot.

Mr. Nemergut showed the project on the map that he presented. He explained in detail the three projects. He explained that the Commission had previously looked at this application, but there was an issue because the owner was listed incorrectly. There are actually three owners and as a result of that discrepancy, the Commission asked that they withdraw their application until all three property owners signed the application and were listed properly. He explained that since the first submittal, there were a few minor changes which he discussed. Mr. Nemergut explained the improvements that were proposed to the common driveway. The common drive would have to be widened to accommodate access to the interior lot as per the subdivision regulations. He explained that the review letters from both the Inland Wetlands and Watercourses Commission and the Chatham Heath District that were written for the original application submitted in October were still applicable to this new application.

Mr. Brownell read the approval letters from the IWWC and the Chatham Health District into the record.

Mr. Brownell opened the hearing to the public. There were no comments offered.

Commission discussion ensued.

Motion by Mr. Curtin to close the public hearing, seconded by Mr. Matthews and carried by unanimous vote.

Motion by Mr. Thomas to approve Application 02-12, Noreen Blaschik, EH Moodus Road, Subdivision review for a proposed 2-lot subdivision, Special Exception Review, for an interior lot, a proposed lot line revision, and a waiver of the stormwater management requirements as depicted on the plans presented January 8, 2013. Seconded by Mr. Curtin and carried by unanimous vote.

9. ADJOURNMENT

Motion by Mr. Matthews, seconded by Mr. Matthew to adjourn at 9:15 p.m., and carried by unanimous vote.