

**PLANNING & ZONING COMMISSION
WINDHAM, CT.**

MINUTES

May 26, 2011

The Windham Planning & Zoning Commission held its meeting on May 26, 2011 in the Meeting Room, Town Hall. Chair Paula Stahl called the meeting to order at 7:06 P.M. Members present were Jean Chaine, Juan Montalvo, Dan Lein, Claire Lary, and Paula Stahl. Victor Rayhall and Dawn Niles were excused. Also present were Town Planner James Finger and Zoning Enforcement Officer Matt Vertefeuille.

I) Approval of Minutes of April 28, 2011 and May 12, 2011. Chair Stahl said at the last meeting it was discussed that we were not meeting FOI because the minutes were not being filed within seven days. Dan Lein came up with a great suggestion that Planner Finger is now implementing, said Stahl. We are now submitting summary minutes in order to meet FOI. The full minutes will follow and can be filed as amended minutes.

Jean Chaine asked to postpone action on the minutes until the next meeting. Dan Lein made a motion to defer action on the minutes of April 28, 2011 and May 12, 2011 until the next meeting and Jean Chaine seconded the motion. The motion carried unanimously.

II) New Business

1) Ronald & Alan Miller, 801 Windham Road, South Windham – application for Site plan review and approval for three proposed self storage buildings.

Chair Paula Stahl offered a public apology to Joseph Boucher, because she felt his needs as an applicant were not met at the last meeting. She said one of her goals on the commission is being ready to help people wanting to invest in our community, and we didn't do that a month ago. She said she was sorry that Mr. Boucher did not have the opportunity to meet with town staff to iron out some of the issues so that we could have considered it for approval at the last meeting. She said she wants to make sure that the town puts out the welcome mat for developers. One of my goals is to eliminate many special permits, so that in our regulations as much as possible is actually permitted. This means that the administrative staff could sign off on projects eliminating the need to come before the Commission. She said we are going to review a lot of changes tonight, and we hope to implement more and more administrative review.

Joseph Boucher, with Towne Engineering spoke to the application. He said he did meet with Town staff and essentially we do have a better plan. He said this is the same plan that the Commission saw last month. Essentially the plan, the location of buildings, the location of the entrance, the location of storm water system all remain the same. A suggestion brought up at the last meeting was to separate the gravel truck traffic from the self-storage. We are now proposing to have the gravel trucks, and some trucks that they own that haul sand and gravel

out of the site, traverse across the frontage of the property, thus keeping this traffic separate from the people coming to the self-storage units.

The Miller Brothers have let go of their Van Lines lease, said Boucher. When they had the Van Lines, they had fifteen employees. They had trucks coming and going all day out of the site. Now we are talking about having four employees on the site, and maybe five cars coming to the self storage. The traffic coming out of the site will be greatly reduced. I think it is a good idea to separate the traffic. In addition, we have pulled the fence back and have cut the corner of the pavement for the self storage. The flow is definitely better, said Boucher.

He said in 1996, he came before the Zoning Commission for site plan modifications. There was a large hill in between land that was owned by the Savings Institute, (or maybe Richard Garrison) and the Miller property. He said he came before the Zoning Commission to remove the hill. At that time, they went to DOT for a permit to have the second entrance, and it is still there today. That entrance is a permitted entrance. It is gated off. If it becomes necessary to work the site from another direction, that entrance is there, he added.

We have separated the traffic, and have shown the parking spaces. Employee parking will be up against the existing building. We will also give the Fire Dept. a key to the gate for 24 hour access. The existing signage will remain. Three stop signs are proposed. He said the traffic on the site is reduced greatly from what it was.

He then referred to the lighting and landscaping plan. He said we have positioned the lighting to eliminate dark spots. The hillside will be loamed and seeded and the existing vegetation on the berm will remain. The existing trees in front of the building will also remain, he added. The plan also shows the second entrance, and the location of the existing screening plant.

Mr. Boucher said we feel that we have a better plan based on meeting with town staff and working through the issues.

Chair Stahl referred to the aerial map and asked Mr. Boucher to identify the property line on the north side. Mr. Boucher pointed it out on the map. That is where there is another access point, he added.

Code Enforcement Officer Matt Vertefeuille questioned the sequencing for building the buildings, doing the grading, loaming and seeding the hillside. Mr. Boucher said grading the hillside has to occur first and the storm water detention basin needs to be moved. Vertefeuille said his concern is that when he signs off on a C/O everything matches up with the plan. Mr. Boucher said at the point when we will be looking for a C/O, the hillside will need to be loamed. It is a very arid site, and the time of the year will depend if it pays to seed it or not.

As there were no other comments or questions by Commission members, Jean Chaine made a motion to approve the application for the improvements on the Ronald and Alan Miller property on Route 32 as presented by the engineer, Joe Boucher, and Juan Montalvo seconded the motion. The motion carried unanimously

III) Referral on disposal of Town owned land at 329R – Back Road.

Planner James Finger explained that this is a piece of property that the Town acquired through foreclosure. It is a land locked piece of property near the Ada Wolf property (Lake Marie) which was donated to Joshua Trust. He said the Tax collector has the authority to negotiate with the neighboring property owners to convey it to them because the property is not buildable. It is not buildable because it has no frontage, and we are not aware of any access to get to it other than maybe some private easements, said Finger. It is town owned property and we have to go through the procedure to dispose of it which requires the Planning Commission's recommendation under Section 8-24. It is a statutory provision that requires the Planning & Zoning Commission to weigh in on any proposal to dispose of Town owned land. As outlined in the Town Plan of Conservation and Development, this property has the highest priority for conservation and preservation. It is in the upland reach of Lake Marie so it contributes to the wildlife habitat, and acts as the corridor to the lake. Planner Finger recommended that this property be conveyed to Joshua Trust to add to their holdings.

Commissioner Jean Chaine said he has great empathy for Joshua Trust, and he knows the property that we are talking about. He said he has walked the land many times and has enjoyed the passive recreation opportunities of that land. He said this property abuts other property owners, and if they had that piece of land it would give them total ownership (the frontage that currently doesn't exist). It also abuts George Cloutier's property which makes it a nice long strip of land that makes it contiguous property. It is also in a high priority area that the Planning Commission has designated for preservation.

He said this property was acquired through foreclosure because its taxes were not paid for a long period of time. That is money that the residents have made up for all these years when it ended up with a shortfall. He said he would like to see Joshua Trust get the property. He said he would like for Joshua Trust to have the right of first refusal, but added that he has some difficulty turning over land that has been acquired through foreclosure at no charge. He said in an attempt to get Joshua Trust an opportunity to acquire the land, to allow them first refusal to purchase the land at the value of the unpaid taxes. I think that is fair to Joshua Trust, it is fair to the taxpayers, and I think it is in keeping with the spirit and intent to have that greenway (the Shetucket Valley Greenway) which eventually will occur. .

Chair Stahl asked how much money was owed for back taxes. Commissioner Chaine said he thought it was over \$20,000., but under \$25,000. H said he didn't know the exact amount. If we don't say something to that effect, and it is read in our recommendation without adding that the spirit and intent was given for nothing. He said it is a recommendation, but it does point out that it is land that had a cost associated with it to the town residents, and we should make an attempt to recoup that cost, he added.

Chair Stahl said she was uncertain whether the Town can dispose of property by giving somebody first choice. Planner Finger said the Plan of Conservation & Development talks about the conservation value of the property. Looking at the neighboring property owners, if they were to acquire it and they want to make some productive use of the property which

would be consistent with the preservation goals. The other properties are agricultural. This property is not suited to agricultural use other than forest land. Chair Stahl said forest land is considered agricultural.

Planner Finger said he did not make any recommendation about purchasing the property. He said his recommendation was simply to convey it, but what Commissioner Chaine has proposed is certainly appropriate. Chair Stahl said what if the Town were to put it out to bid to the highest bidder, then perhaps Joshua Trust could have the option of matching the highest bid. Commissioner Chaine said in an attempt to give preference to Joshua Trust and in keeping with the preservation of the land at the very minimum, if they want that land and are willing to satisfy the taxes that should satisfy everyone else unless there is another landowner that really wants the property. But, if the Town Council adopts this recommendation, and Joshua Trust accepts the idea of paying for the property equal to the taxes, I think there is legal background for that to be able to take place without having to deal with any complaint from an adjacent property owner, said Finger..

Chair Stahl said the Town Council will have the final decision as to how they want to dispose of this property. Perhaps we should recommend: a) Commissioner's Chaine's suggestion, and if the Town Council decides not to accept that, and puts it out to bid, then allow Joshua Trust to match the highest bidder. Commissioner Chaine said we really want that land to be preserved, I think I am offering a course of action that pretty much assures that, as well as getting restitution for the unpaid taxes. Commissioner Claire Lary said what if we recommend that the Town disposes of it with a conservation easement attached to it. Chair Stahl said we could recommend that the Town Council dispose of it after putting a conservation easement on the property so that it cannot be developed. Joshua Trust could put a conservation easement on it immediately, she said.

Commissioner Chaine said he feels that he owes it to himself and the rest of the tax paying residents to find some way to recoup that unpaid taxes. He said our recommendation should have a value associated with it, and that would be the unpaid taxes.

Planner Finger said it would require a town meeting to actually sell the property. Chair Stahl said the Town Council can decide how to dispose of it; whether to the abutter or to a bid. Commissioner Chaine referred to Section Statute 12-1-57 which states that if you acquire land in the way this was acquired, just turning it over sets a very bad precedent for the future. Chair Stahl said her understanding is the Town, as a body, cannot buy or sell any asset without having a Town meeting. She said in terms of this particular parcel, there is not a great deal of development opportunity.

After considering the Commission's comments and suggestions Jean Chaine proposed the following motion:

Be it hereby resolved pursuant to Connecticut General Statutes, Section 8-24, that the Windham Planning & Zoning Commission recognizes that Town acquired property known as 329 Rear Windham Back Road is consistent with the Town Plan of Conservation and Development, and in a location designated the highest priority for the preservation of natural

resources. Therefore, the Windham Planning & Zoning Commission recommends that the Town offer the property to Joshua Trust at a purchase price equal to all of the unpaid taxes incurred by the previous property owner, before making it available to any other perspective buyer. Dan Lein seconded the motion. The motion carried unanimously.

IV) Revision to Windham Zoning Regulations

Planner Finger provided the following list of proposed changes to the Zoning Regulations:

- a) Deleting references to referrals to the Windham Planning Commission as the Planning and Zoning Commissions have been merged;
- b) Section 3 – General Provisions relating to procedure and time lines for certificates of zoning compliance, and on provisions for non-conformities to reflect State law;
- c) Changes to the B-1 Downtown Central Business District, and revising the boundaries;
- d) Establishing a new zoning district for the neighboring areas to be identified as B-1a;
- e) Also revisions to Section 73 – Alcoholic Beverages to reflect the B-1 regulations regarding restaurants serving alcohol;
- f) Establishing a new zoning district in the North Windham Shopping area to be identified as C-4;
- g) Revising Section 52 – Special Flood Hazard Area to clarify procedures for minor amounts of fill;
- h) Deleting Section 77 on Soil Erosion and Sediment Control Plan and making reference to the State’s Erosion and Sedimentation Control Guidelines instead;
- i) Replacing Section 71 – Off-Street Parking and Loading;
- j) Replacing Section 74 – Performance Standards;
- k) Revising Section 80 on Home Occupations – removing restriction that they are only permitted in single family dwellings;
- l) Revising Section 91 – Administrative and Enforcement – allowing staff greater flexibility to approve activities that are substantially in compliance with the regulations and allowing for minor deviations from standards as may be appropriate, and authority to revoke a zoning certificate where a violation of conditions may occur.

A general discussion ensued.

Chair Stahl distributed a list of topics that we are working on taking up. She said the first half is what we are hoping to bring to a public hearing on June 23, 2011. She said we are proposing changes that will make it easier for developers, and subdivisions for non-residential subdivisions outside of the district. She said she hopes we can work on chicken regulations in the service district, food carts, and also gravel operations. Presently applicants must come before the commission at a public hearing to renew their permits. Presently in our regulations we treat gravel operations that were in existence a long time ago differently than the ones that are newer. Once they are established and running for a number of years it doesn’t seem logical that we should make them renew their permits every five years. We should be able to do that with administrative inspections. If there are issues then the PZC has the opportunity to hold a public hearing. We were hoping to include this in the first batch, but there are too many issues to rush it through, she said.

Commissioner Jean Chaine said there are a lot of issues that are oriented around gravel operations that take place near residential areas, and that generally is the case in combination zones. Rather than have to spend a lot of time when it comes to deal with this issue, he asked whether the PZC would be willing to designate him as its representative to work with the Code Enforcement Officer to develop language that will address the spirit and intent of having longer term permits, and still be able to deal effectively with some of the issues that were raised at the last meeting. Chair Stahl spoke in favor of Commissioner Chaine working with the ZEO to develop appropriate language and agreed to forward a draft which she has been working on.

Chair Stahl said that in the Fall we will take up commercial regulations for West Main Street, Route 32 South, and North Windham West and trying to find ways to defer to staff for administrative approval. We also need to think about village districts for our three villages.

She said she was speaking with the Mayor who said how awkward and cumbersome the process was for the Hospital to work through the subdivision regulations. She said she's not sure why it was necessary for them to submit the enormous amount of paperwork that they did given the fact that we were meeting with them regularly because we wanted it to be as easy as possible, and to request waivers, which they did. We changed the district to include things that they submitted and were exempt for them, but yet they still submitted them. She said the Hospital complained that we asked for too many maps. Planner Finger said the regulations do require certain things. Chair Stahl said we waived many of the requirements. She said this submission is ridiculous. I would never want one of our developers to feel the need to do this. She said perhaps we need to take a look at our subdivision regulations. She asked the Town Planner to come up with regulatory changes that we need within our subdivision regulations.

The commission then reviewed the proposed miscellaneous changes:

- a) Subdivision Regulations,
- b) Delete referrals to Planning Commission as the Planning & Zoning Commissions have been merged,
- c) Provisions for non-conformities to reflect State Law,
- d) Special Flood Hazard Area,
- e) Soil Erosion and Sediment Control Plan,
- f) Home occupations, Off-street parking,
- g) Administrative and Enforcement

The commission then reviewed Section 31.2 Permitted Uses. Chair Stahl said permitted uses that would be handled through administrative approval from town staff in the B-1 would include businesses selling goods at retail, restaurants and other food service establishments, alcoholic beverages for consumption on the premises under a Restaurant Permit or Dinner Theater Permit, businesses providing personal services including, but not limited to banking and financial institutions, insurance, legal, medical, art galleries and art studios, museums and public and private schools, membership clubs, recreational facilities, customary accessory use,

off-street parking facilities that are set back at least 25 feet from any property line abutting Main Street, dwelling units above the ground floor.

Section 39 North Windham Retail East C-4. Joe Boucher of Towne Engineering submitted recommendations for consideration. She said one of his concerns is that we are limiting what can happen there. It will be more restrictive than it currently is. Chair Stahl said we are well aware that we are doing that; we are creating an area for large, big box type retail and franchise businesses, and encourage that development there. Mr. Boucher felt the number that we included for impervious area is too restrictive. Chair Stahl said we need to take a look at that and come up with a more realistic percentage, she said.

In the parking regulations, one of Joe Boucher's comments was that we are asking for a lot of parking for self-storage units. She said perhaps we are looking for more parking than we need on the self-storage units.

Mr. Boucher was also concerned with Section 74.9 dealing with storm water, and we will take a look at that, she said.

Discussion then focused on Section 39.4 Prohibited Uses. Commissioner Jean Chaine suggested that mobile food vendors should be a permitted use.

Planner Finger referred to Section 92.4 and suggested eliminating this section because it is not necessary for an applicant to go before the ZBA.

Planner agreed to post the proposed revisions to the Zoning Regulations on the Town's website.

V) Miscellaneous

Letter received from Joseph Boucher seeking a renewal of a Special Permit for DeSiato Sand & Gravel Excavation. Due to the economy, Mr. DeSiato has not been able to move much of the material out of the site and had to lay off personnel from his operation; so he has not been operating to the full extent of the permit. Code Enforcement Officer Matt Vertefeuille performed an annual inspection and indicated that he didn't have any concerns that require attention as a result of his inspection.

Chair Stahl suggested that they wait to file their application until the new regulations are in place. Planner Finger agreed to acknowledge Mr. Boucher's letter and will ask them to wait to file their application.

As there was no further business, the meeting was adjourned at 9:25 P.M.

Respectfully submitted,

Lillian Murray, Clerk