



TOWN OF WESTPORT
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PLANNING BOARD

PLANNING BOARD MEETING MINUTES

June 09, 2015

Chairman James T. Whitin called the meeting to order 6:03 p.m. with Vice-Chairman William Raus, Clerk Marc De Rego, Member David Cole, Member Andrew Sousa and Town Planner James Hartnett in attendance.

APPOINTMENTS

Public Hearing

Old County Estates – Jo-Ann’s Way (14-006C-CD) Definitive Subdivision and Common Driveway Application. *Continued from January 13, 2015, February 10, 2015, February 24, 2015, March 10, 2015, March 24, 2015, April 7, 2015, April 21 2015 and May 19, 2015.* Request by applicant to construct a (9) 8 lot subdivision with two lots serviced by a Common Drive Way on land between 624 & 652 Old County Road Assessor’s Map 34, Lots 48J, 50-51.

The proposed subdivision road would extend from Old County Road northerly approximately 1150'. The road would provide frontage to 8 lots. Lots 4 & 5 would be accessed by a common driveway, which requires a special permit under the Common Driveway By-Law.

Steve Gioiosa from SITEC Engineering was present along with applicant Gary Bouchard. Gioiosa proposed a paved road width of 22' for the project, and then addressed the issue of storm water on the plan of land by explaining in detail the proposed storm water mitigation system. Drainage onto a specific piece of abutting property was discussed and Gioiosa described a change made to the original plan including an additional water retention area to provide a solution to any possible excess drainage. Gioiosa explained that the storm water calculations have been altered due to decreased lawn areas for each lot and a reduction of impervious area for each lot to about 8,000 sq. ft. per lot. Gioiosa noted that a vast majority of approximately 35 acres of land would be left untouched. He also noted the new location for the fire cistern. Discussion ensued over the storm water calculations and the systems proposed to handle the flow. Whitin read Tibbett’s report dated June 09, 2015, into the record. Whitin read the additional comments from various boards into the record. Gioiosa noted that there is an Order of Conditions from the ConCom on the property. Gioiosa reviewed each of the comments from Tibbetts for the Board. Discussion ensued over rock ledge on the property.

Cole asked if an Open Space Residential Development had been considered for the plan and Gioiosa responded that the applicant felt more comfortable with conventional lot sizes. Cole expressed his concern that no denitrifying septic systems were planned for the lots. Sousa also expressed his concern for excess nitrogen loading to the sensitive area. Gioiosa responded that, the area is not an undeveloped area, and since the original plan, one lot has been removed, the clearing for each lot has been decreased, and much of the 35 acres will be left untouched. Hartnett noted that any type of septic systems used is out of the Planning Board’s control but since Lots 4 & 5 are applying for a Special Permit under the Common Driveway By-Law the Board could require the applicant to use denitrifying septic systems on those two lots. Whitin asked if any deed restrictions were on Lots 4 & 5 to prevent further subdivision and Gioiosa responded no, but noted that the applicant had no plans to further subdivide at the moment. Hartnett reviewed his comments for the Board.

Abutter Deborah Bastoni of 113 Reed Road was present and expressed her concern stating that she already has excess ground water on her lot. In her opinion, the stream in the area that was determined to be an "intermittent stream" should be considered a "perennial stream". Gioiosa responded that the Conservation Commission had made the determination and it stands on file for three years.

Betsy White from the Westport River Watershed Alliance was present to request that the applicant consider denitrifying septic systems. White noted that the Westport River area is already 18% over the nitrogen load, any more nitrogen from septic systems is potentially an increase of pollution into the river.

Abutter Kerry Cudmore of 109 Reed Road was present to express her concern to the impact to the environment and to her well water from the proposed development. Cudmore also stated that in her opinion, the stream in the area that was determined to be an "intermittent stream" should be considered a "perennial stream". Discussion ensued.

Abutter Beth Fitzsimmons of 624 Old County Road was present and questioned the limitations of clearing on the lots. Gioiosa detailed the clearing that would be allowed. Fitzsimmons questioned who would be responsible to ensure that the storm water near her property flowed correctly and Whitin responded that the Home Owner's Association would be responsible until such time the road is accepted by the Town.

Hartnett reviewed the Waivers for the Definitive Subdivision:

1. Section III (B)d Waive cost estimate
2. Section V(C) Waive 20% stormwater reduction requirement
3. Section IV(A,3)b Waive the intersection leveling area requirement
4. Section V(B,2) To reduce the travelled way width to 22'

Raus motioned to approve the Waivers as read by Hartnett for Old County Estates – Jo-Ann's Way Definitive Subdivision dated October 17, 2014, and revised through June 3, 2015. De Rego seconded the motion and the vote was four in favor with Sousa abstaining.

The applicant stated that he decided that he would voluntarily install denitrifying type septic systems on Lots 4 & 5.

Hartnett reviewed the Conditions for the Definitive Subdivision:

Conditions

1. The following note shall be added to the plan.
"Subject to a Restrictive Covenant (FORM F) dated: _____ to be recorded herewith in the Bristol County Registry of Deeds Book _____, Page _____."
2. Homeowners Association: As a condition of approval of this subdivision, prior to endorsement of the definitive plan the Applicant shall create and properly fund a Homeowners Association. All purchasers of land within the subdivision shall be required to belong to the Homeowners Association.
 - a. The Homeowners Association shall be responsible for the maintenance, repairs and plowing of the subdivision roadways, unless accepted by the Town.
 - b. The Homeowners Association shall maintain permanent ownership of any drainage basins or ponds in the subdivision, including all pipes and other appurtenant devices, and shall have the permanent responsibility of maintaining, repairing and replacing said drainage systems, as necessary, unless accepted by the Town.

- c. The Homeowners Association documents shall be reviewed and approved by the Planning Board, in consultation with Town Counsel (at the expense of the applicant), and the Homeowners Association shall have an initial fund that is deemed satisfactory to the Planning Board, in consultation with the Planning Board's technical consultant.
3. Road Maintenance and Snow Removal: Applicant shall be responsible for periodic maintenance and snow removal until such time a properly funded Homeowners Association is created and is properly functioning.
4. Fire Protection: Access to/from the fire protection tank must be maintained at all times for Fire Department use in the event of an emergency.
5. Roof run-off recharge systems are required for each dwelling and a detail shall be added to the plan.
6. Construction work on the subdivision road and utilities shall only be done between the hours of 7:00 a.m. and 6:00 p.m., Monday - Saturday.
7. The applicant shall provide the Town legal access to the proposed stormwater and fire protection systems.
8. Maximum clearing area per lot shall be limited to 30,000 s.f. excluding drainage areas.
9. Add dimension to rear lot line of Lot 3 (Sheet 1 of 5).
10. Dimensions shall be added to delineate the fire tank easement. (Sheet 1 of 5).
11. General Notes (Sheet 4 of 5) change note 8 to include paved aprons to read as follows:

"Openings in Driveways shall be paved within the road layout and graded to prevent normal runoff water from entering the driveway outside the street right-of-way"

12. General Notes (Sheet 4 of 5) remove the following note 9

"Pre-cast concrete curbs shall be used as headers to all catch basins, pre-cast concrete shall be used around all cul de sac islands."

13. Details shall be added to the plan showing a construction entrance, rip rap outlet and check dams.
14. The plan shall include a note on the recordable plan stating *"No dwelling shall be built on any lot without first securing from the Board of Health a permit for an approved Title-V compliant Soil Absorption System septic disposal system"*
15. Prior to signing the decision the applicant shall submit for approval to the Planning Board's consultant engineer revised drainage calculations.

Raus motioned to approve the Conditions for the Definitive Subdivision as read by Hartnett for Old County Estates – Jo-Ann's Way Definitive Subdivision dated October 17, 2014, and revised through June 3, 2015. Cole seconded the motion and the vote was four in favor with Sousa abstaining.

Raus motioned to close the Public Hearing for Definitive Subdivision Old County Estates- Jo-Ann's Way as prepared for Gary Bouchard dated October 17, 2014 and revised through June 3, 2015. Cole seconded the motion and the vote was unanimous with all in favor.

Raus motioned to approve the Definitive Subdivision plan entitled "Definitive Subdivision Plan of Land Old County Estates- Jo-Ann's Way" dated October 17, 2014 and revised through June 3, 2015 subject to conditions as stated. Cole seconded the motion and the vote was four in favor with Sousa abstaining.

Hartnett reviewed the Waivers for the Common Driveway:

1. Section 21.3.1 – of the Town’s Zoning By-laws as it relates to length from 500’ to 570’+/-.

Raus motioned to waive the maximum Common Driveway length of 500' to allow 550' to 570'. De Rego seconded the motion and the vote was four in favor with Sousa abstaining

Hartnett reviewed the Findings for the Common Driveway:

Sample Findings

1. The project as presented enhances public safety by reducing the number and frequency of points at which vehicles may enter upon the ways used by the public. The two lots will use the common driveway as one access point onto Jo-Ann’s Way.
2. The project as presented, will preserve, protect and enhance environmentally sensitive land, such as wetlands and an intermittent stream, by reducing the area of land that is cleared, excavated, filled and/or covered with impervious material.
3. The project as presented encourages the protection and preservation of significant features, by limiting the access to lot 4 and utilizing the area of the existing stream crossing to access the lot.

Cole and Souza did not believe finding number 2 was consistent with the plan and recommended removing it.

De Rego motioned to accept Findings 1 and 2 above as read by Hartnett. Raus seconded the motion and the vote was four in favor with Sousa abstaining.

Hartnett reviewed the Conditions for the Common Driveway:

1. A plan suitable for recording (the definitive Subdivision Plan may be used to meet this condition) shall be submitted with the following statements:
 - a. “The Common Driveway for lots 4 & 5 is subject to a Special Permit pursuant to the Town’s Common Driveway By-Law, Article 21, granted on _____, by the Westport Planning Board and Recorded in the Bristol County Southern District Registry of Deeds in Book _____, Page _____.”
 - b. “Occupancy permits shall not be issued for lots 4 & 5 until the common driveway has been constructed. The applicant’s engineer shall certify to the Planning Board that the common driveway was built in substantial conformity with the approved design plans and a Form R, Inspection Certificate shall be submitted and signed by a Registered Professional Engineer.”
2. Submittal and recording of a Homeowners Association meeting the conditions of Section 21.3.12 of the Town’s Zoning By-Law.
3. The applicant shall pay inspection fees to the Town of Westport, as determined by the Planning Board, sufficient to cover any expenses connected with construction inspection of the Common Driveway.
4. Septic systems for lots 4 & 5 being serviced by the common driveway shall install and maintain denitrifying septic systems designed to reduce the nitrogen to a maximum level of 19 ppm.
5. There shall be no further division of lots 4 & 5.
6. The plan shall show a cross section and profile of the common driveway.

7. There shall be a separate sheet or sheets with all information relating to the construction of the common driveway.
8. The common driveway shall have a paved apron within the road layout.

Raus motioned to approve the Common Driveway Special Permit application for Old County Estates – Jo-Ann’s Way (14-006C-CD) Lots 4 & 5, Map 34, Lots 48J-50-51 subject to the conditions 1-8 as stated. Cole seconded the motion and the vote was four in favor with Sousa abstaining.

ADMINISTRATIVE ITEMS

- a. Vote to retain Phase II Master Plan funds \$14,635.97 for unfinished work (due to accountant). Cole motioned to retain the Phase II Master Plan funds \$14,635.97 for unfinished work. De Rego seconded the motion and the vote was unanimous with all in favor.
- b. Subdivision regulations. Board will discuss at next meeting.

Town Planner Report.

None.

Any other business that may come before the board.

None.

Correspondence.

- a. Ch 91 dock application – Snyder – Boat House R.O.W. Noted. Hartnett briefly reviewed the application for the Board.

Invoices.

WB Mason for office supplies \$149.94.
Cole motioned to approve the invoice listed above. Raus seconded the motion and the vote was unanimous with all in favor.

ADJOURNMENT

Members unanimously voted to adjourn at 8:51 p.m.

Respectfully submitted,

Joan Steadman, Recording Clerk