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Cc:

ADOPTED

PLANNING COMMISSION MEETING  
October 13, 2009  
REGULAR MEETING

I. CALL TO ORDER

Chairman John Loomis called the regular meeting of the Planning Commission to order at 7:10 p.m. in the Main Meeting Room of the Simsbury Town Offices. The following members were present: Susan Bednarczyk, Gerry Post, Mark Drake, Julie Meyer, Ferg Jansen and Carol Cole. Also in attendance were Howard Beach, Zoning Enforcement Officer, as well as other interested parties.

II. SEATING OF ALTERNATES

Chairman Loomis appointed Commissioner Cole to serve in the absence of Commissioner Houlihan.

Commissioner Post made a motion to move Item III. to the end of the agenda. Commissioner Meyer seconded the motion, which was unanimously approved.

III. PRESENTATION, DISCUSSION AND POSSIBLE DECISION

Application of Michael and Stacey Flammini, Owners, for a modification to the existing conservation easement on the Kilbourn Farms Subdivision to allow for an in-ground pool on property located at 3 Kilbourn Farms. R-40 Zone (Assessor Map-G-5, Block-302, Lot-2) (continued from meeting held on September 22, 2009)

Commissioner Bednarczyk stated that she would be recusing herself from this discussion. She did not listen to the minutes or participate in the site walk for this application.

Chairman Loomis stated that Commissioners Meyer, Drake, Jansen Cole, Post, Houlihan and Loomis have visited this site.

Mr. Flammini stated that he submitted a letter from the Wrobels stating their full support with these proposed plans. He stated that if this application is approved, he would reinstate the conservation land from the proposed pool house to the property line. The landscaping that will be put in will be held in conservation so future owners could not cut anything down in this area. The area will be improved and then reinstated as conservation area.

Mr. Beach stated that if the entire conservation easement went away, a future owner could cut the trees down and there would be no buffer there. This conservation easement will restrict cutting in this area.

Chairman Loomis stated that this Commission is looking at this application because, originally, the conservation in lieu of open space was part of the approval of the subdivision. The applicant is now proposing that part of the conservation easement become land that will accommodate a pool house; it will be adjacent to the proposed pool site. The applicant is proposing that the land, approximately 100' x 120', be restored. He stated that this land is on the side lot.

Mr. Beach stated that the frontage for this lot is considered Hoskins Road. Commissioner Meyer stated that the proposed pool is in the side yard. She suggested that the Planning Commission could grant an easement relief. Mr. Beach stated that if the Planning Commission would not let the applicant modify the easement, it would not be necessary for the applicant to go to the Zoning Board of Appeals for a variance.

Commissioner Jansen questioned if the total conservation easement area would be greater or less than it currently is. Mr. Beach stated that the square footage would be the same.

Commissioner Meyer stated that she did a calculation of a rough estimate on the total amount of current conservation easement on the property. She stated that the total conservation easement area is approximately 12,000 s.f. in area. It is just under a quarter of an acre, although it is over 20% of conservation easement area on their property. She stated that she would be in favor of giving the applicant a waiver and not replacing the easement. She feels that this would cause more problems for the other neighbor if it is replaced.

Chairman Loomis stated that the Commission members need to discuss what the hardship for the applicant would be and to what extent the Planning Commission is creating a precedent. There are other possibilities that exist on this lot, although they may be more undesirable. Commissioner Meyer stated that there are not many other places to put the pool. Pools are usually near the living space.

Commissioner Post stated that this would not be an issue if the applicant was not proposing a pool house/shed. He stated that if the easement is granted, it would be to get more sunlight onto this property and also to allow a structure, which the Town will not have any control over in the future. Many times these structures get bigger over time. Regarding a precedent being set, he stated that this is also a concern. Commissioner Post stated that there are other opportunities for the shed on this property. There would not be a need to encroach on the conservation easement for the pool alone. Also, even though the Wrobels have signed off on this plan, future owners may not like this proposal.

Chairman Loomis questioned how big the proposed shed was. Mr. Flammini stated that the proposed shed was 15' x 20', although he would reduce the size if necessary. He stated that the shed needs to be 10' away from the pool.

Commissioner Post stated that there are other opportunities in different locations on the property. He stated that the Commission could limit the approval for cutting into the conservation easement. Mr. Beach stated that the cutting would only be needed in order to shed light on the pool; additional cutting would not be needed if there was no shed.

Regarding the landscaping, Chairman Loomis questioned how this would be assured from the Town's perspective. Mr. Beach stated that the Planning Commission could grant the applicant's ability to replant a delineated section of the conservation easement in concert with the plan that was submitted. The existing easement could be modified.

Chairman Loomis questioned that, if there were no structures encroaching on the easement, would the Zoning Board of Appeals need to be involved at all. Mr. Beach stated that, if the shed was moved to a position where it did not need a variance, the pool would still need a variance because it is 10'-12' into the side yard setback.

Commissioner Jansen stated that what the applicant would like to do is logical. They need the light for the pool and the neighbors have agreed. This will make it denser between the owners and the Wrobels. Chairman Loomis stated that the Commission could deal with just the encroachment with respect to the sunlight; the issue of where to place the structure would be the responsibility of the applicant. Commissioner Jansen suggested that the applicant look into getting a smaller pool house.

Commissioner Drake stated that, in the past, the Planning Commission had very strong views regarding not encroaching into and not allowing structures into the conservation easement. He feels that if the Commission approves this, they would be setting a precedent. He feels that there are

alternatives that the applicant could seek.

Regarding adding to the conservation easement, Mr. Beach stated that he does not believe the added easement would be of any value. The conservation easement is a buffer for the whole subdivision.

Commissioner Post made a motion to approve the application of Michael and Stacey Flammini, Owners, for a modification to the existing conservation easement on the Kilbourn Farms Subdivision to allow for an in-ground pool on property located at 3 Kilbourn Farms. R-40 Zone (Assessor Map-G-5, Block-302, Lot-2), to modify the conservation easement for the landscaping as proposed by the property owners in order to improve the sunlight to the proposed pool. This approval does not include a pool house nor a change in easement as originally proposed. Commissioner Cole seconded the motion, which was unanimously approved.

Commissioner Bednarcyk returned to the Commission.

IV. CONNECTICUT GENERAL STATUTE 8-3a REFERRAL FROM THE ZONING COMMISSION on a Zone Change from I-1 to B-2 on property located at Autobon, 83 – 93 Wolcott Road. I-1 Zone

Attorney George stated that he is seeking a positive recommendation from this Commission to the Zoning Commission. He stated that Mr. Blanchette owns an automobile repair business. In 1996 he bought a foreign car business. His business is currently at 10 Herman Drive, although he would like to expand. He stated that Mr. Blanchette also received his repair license in 2007.

Attorney George stated that the Site Plan has been approved, although Mr. Beach cannot sign off on the dealer's license because zoning does not allow sales on this parcel. Mr. Beach stated that this is a pre-existing non-conforming use.

Attorney George stated that although Mr. Blanchette is still operating out of 10 Herman Drive, he has been renovating the site on Wolcott Road. He has maintained his dealer's license at 10 Herman Drive; he is allowed to sell vehicles at that location. He would now like to expand to Wolcott Road. The problem is that he cannot move his dealer's license over because this use is not technically allowed under this zone. He stated that Mr. Blanchette is seeking a change from an I-1 to a B-2 zone; there are residences on this property that are currently being used. It will also allow for the automobile sales and repair. Attorney George stated that they are not seeking to change the uses that have historically been in this area, but to make them conforming and to allow Mr. Blanchette to move his dealer's license.

Attorney George stated that Mr. Blanchette does not want to have a large dealership. He would just like to move his dealer's license to this location. His main business is repairing cars. The Wolcott Road location will be able to hold 12-15 cars. Attorney George stated that the B-2 zone would apply to the whole parcel. The Special Exception would be for 89 Wolcott Road.

In response to a question by Commissioner Meyer, Mr. Beach stated that, under the law, Special Exceptions are only permitted to allow a use that is allowed as of right in that zone.

Attorney George stated that Mr. Blanchette went before the Zoning Commission to see what the best way was to go about relocating. They felt that a zone change would be best.

Commissioner Jansen stated that if a change was made to the whole parcel, the applicant would be restricted to the footprint on the Site Plan. Attorney George stated that this is correct. The Zoning Commission stated that they did not want a "sea" of cars at the new location. They wanted the cars to be limited to a designated location on the side of the building. They also wanted landscaping to buffer the cars.

Commissioner Cole stated her concerns regarding what the zone change may allow on this site in the future. Attorney George stated that any changes to the Site Plan would need to go before the Zoning Commission.

Mr. Beach stated that, from the Town's perspective, all of the uses in that location are non-conforming uses. Changing to the B-2 zone makes this entire site compliant.

Commissioner Drake stated that the Plan of Conservation and Development shows this area as a business area.

Chairman Loomis stated that if they chose to make a favorable recommendation, support in the POCD should be found.

After a short discussion, the Commission decided to have a site walk on Friday, October 16th at 4:00 p.m. The applicant stated that he would stake out the four corners of the site prior to the site walk.

V. CONNECTICUT GENERAL STATUTE 8-3a REFERRAL FROM THE ZONING COMMISSION on a proposed Text Amendment to the Town of Simsbury's Zoning Regulations, Article Seven, Uses, for the purposes of a moratorium (not to exceed eight (8) months) on Adult Oriented Uses.

Mr. Beach stated that the Zoning Commission is considering a regulation regarding adult oriented uses. The Town Attorney is currently drafting limitations regarding this use. He stated that this issue is currently in the Court system. They would like to wait to see what happens in Court before going through the approval process.

Commissioner Bednarcyk stated that she feels something should be put on the books now and then the Town can go back and amend it later.

Mr. Beach stated that a moratorium is already in place. Once this type of zone is created, people can apply to put a business in that zone. If it is not addressed, someone has a chance to put one in anyway. He suggested that the Commission recommend to keep the moratorium going and not put something into effect that may need to be changed in the near future.

Commissioner Jansen made a motion to extend the moratorium regarding CONNECTICUT GENERAL STATUTE 8-3a REFERRAL FROM THE ZONING COMMISSION on a proposed Text Amendment to the Town of Simsbury's Zoning Regulations, Article Seven, Uses, for the purposes of a moratorium (not to exceed eight (8) months) on Adult Oriented Uses, as recommended by the Zoning Commission. Commissioner Post seconded the motion, which was unanimously approved.

#### VI. THE TOWN CENTER CHARRETTE NEXT STEPS

Mr. Beach stated that Mr. Peck is trying to find additional funding to get the consultant to come back two more times, once in November with the draft regulation and once in December to review the draft with the Land Use Commissions.

#### VII. STATUS OF THE INCENTIVE HOUSING ZONE STUDY

Mr. Beach stated that there has been no change in the Incentive Housing Zone study. He stated that the consultant for this study was involved in the Charrette process.

#### VIII. STATUS OF THE PROPOSED PLANNED AREA DEVELOPMENT (PAD) ZONE

Mr. Beach stated that there has been no change regarding the PAD Regulation.

Commissioner Cole questioned if the May draft of the PAD Regulation was the most current. Commissioner Meyer stated that the July draft was most current.

#### IX. STAFF REPORT(s)

There were none.

#### X. COMMUNICATIONS AND ADMINISTRATIVE BUSINESS

Commissioner Post stated that he attended the opening of the new student academic center at the Westminster School. He stated that the building is Gold LEED Certified, which is the only building to achieve this in New England. He stated that they also installed geothermal wells, which have a 5 year payback.

Chairman Loomis stated that he was unable to attend this event; Commissioner Post went in his place. Ms. Glassman, Mr. Dahlquist and Mr. Hampton also attended.

Commissioner Post stated that the new addition of the student center fits very well into the campus. The attention to detail by the architect was tremendous. He stated that the addition is surrounded by mature trees. He feels that this building will be a model for others to go by.

Regarding Simsbury Farms, Commissioner Post stated that a local vendor has received the contract for the building. They have dug the footings and the concrete has already been poured. He stated that the building will be tucking into the wood line and will not be noticeable.

Commissioner Jansen stated that he attended a recent Bike Path meeting at which the School Board was represented. The discussion centered around reducing bus trips and having a healthier lifestyle for children.

Commissioner Meyer questioned what happened at the last Open Space Committee meeting. Chairman Loomis stated that a farm policy is being discussed and if the policy should be for organic certified or organic practices. He stated that Ms. Glassman would like a policy established prior to going out to bid.

Regarding the Triangle, Commissioner Post stated that there are many birds that came into the field this summer. They have been nesting in the fields. He stated that it is amazing what the Triangle transformed into with having the wild rye and grass there. He stated that the Town needs to consider what type of farming will be there, or if athletic fields will go there. He feels that athletic fields would negate what the people of Simsbury wanted to do there.

The Commission members discussed the power lines that CL&P will be installing in the existing corridor through Simsbury.

Commissioner Drake stated that he is unable to make the October CRCOG

meeting. Commissioner Cole stated that she would attend in his place.

XI. POSSIBLE APPROVAL OF MINUTES from the September 22, 2009 meeting

Several edits were made to the minutes.

Commissioner Post made a motion to approve the September 22, 2009 minutes as amended. Commissioner Meyer seconded the motion, which was approved. Commissioner Bednarczyk abstained.

XII. ADJOURNMENT

Commissioner Jansen made a motion to adjourn the meeting at 9:13 p.m. Commissioner Meyer seconded the motion, which was unanimously approved.

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Gerry Post, Secretary