

**TOWN OF BROOKLYN  
PLANNING AND ZONING COMMISSION  
Regular Meeting  
Wednesday, August 1, 2018  
Clifford B. Green Meeting Center  
69 South Main Street  
6:30 p.m.**

**MINUTES**

- I. Call to Order** – M. Sigfridson, Chair, called the meeting to order at 6:37 p.m.
- II. Roll Call** - Michelle Sigfridson, Carleen Kelleher, Aaron Kerouac, Jules D’Agostino, Austin Tanner, Earl Starks.

Jeryl Mohn had resigned.

**Staff Present** – Jana Roberson, Director of Community Development.

**III. Seating of Alternates**

Motion was made by J. D’Agostino to seat E. Starks as a Voting Member for the meeting. Second by C. Kelleher. Motion carried unanimously (5-0-0).

**IV. Adoption of Minutes: Special Meeting Minutes July 12, 2018**

Motion was made by J. D’Agostino to approve the Minutes of the Special Meeting of July 12, 2018. Second by C. Kelleher. There was discussion:

C. Kelleher asked that the following change/correction be made:

- Page 3, third full paragraph, first sentence, to read as follows: “C. Kelleher reviewed the history noting that the initial application was December 2, 2005 and was denied.”

There was discussion regarding that the motion to deny Application 18-001 (at the July 12, 2018 Meeting) had not been made in the affirmative. Ms. Sigfridson asked if any of the Commission Members were confused about their vote and no one stated that they were.

Motion carried with the noted change/correction (5-0-1) A. Tanner abstained.

**Special Meeting Minutes July 17, 2018**

Motion was made by C. Kelleher to approve the Minutes of the Special Meeting of July 17, 2018. Second by A. Tanner. Motion carried unanimously (6-0-0).

**V. Public Commentary** – None.

**VI. Unfinished Business:**

**a. Reading of Legal Notice:**

J. Roberson explained that the legal notice for SPG 18-001 had to be republished due to the date of the opening of the public hearing being changed. Ms. Roberson read the legal notice. It was published on July 20<sup>th</sup> and July 27<sup>th</sup>.

**b. Continued Public Hearings:** None.

**c. New Public Hearings:**

- 1. SPG 18-001 Special Permit for Sand and Gravel** – Paul Lehto, end of River Walk Drive (Assessor's Map 32, Lot 148), ~70 acres, Proposed removal of 75,000 cubic yards of gravel over 2.7 acres.

David Held, Professional Engineer and Land Surveyor with Provost & Rovero, represented the Applicant and gave an overview. Copies of the plans (latest revision date June 6, 2018) were provided to Commission Members and there were some copies available for viewing by attending members of the public. He explained that the latest revision was to the existing conditions survey by Archer Surveying verifying the status of River Walk Drive – it appears that the Road is actually part of the subject parcel and was never accepted as a Town road.

- The property is approximately 71 acres. Mr. Held referred to Sheet 3 of the Plan Set (overall plan showing topography, the proposed excavation and the rest of the property and surrounding land uses). He indicated a CL&P easement and an existing gravel road which traverses east/west, crosses the CL&P easement, through an existing wetlands crossing and then out into a large open area on the easterly side of the property
- Approximately 15 acres on the easterly portion of the property was excavated in the 1990's under a special permit at that time. It has never been restored and topsoil is still in stockpiles. Mr. Held stated that the Town still holds a cash bond for the restoration of that area. This area is a point of concern for Staff and the PZC.  
A site walk is scheduled for tomorrow night.
- IWWC approval (with conditions) was received at the May meeting. The conditions were addressed in the plans. IWWC approval letter (dated May 16, 2018) was included in the packets to Commission Members.
- A new bond estimate is proposed for final restoration of the new excavation (2.7 acres) - \$10,000 per acre for a total of \$27,000. Mr. Held anticipates that they may have to revise the bond estimates for the 15 acres previously disturbed under the old permit.
- The 75,000 cubic yards on the application would be a best-case scenario. They feel they may only get half of that, but they put in the larger number to maintain compliance.
- The excavation grades shown on the plans are probably deeper than the marketable material.
- Mr. Held explained Sheet 5 of the Plan Set which is the final grading plan.
- The last Sheet in the Plan Set is a conceptual re-use of the entire property which is a conservation subdivision (provided for information only). He explained that Mr. Lehto allowed the Town to hold the bond for approximately 20 years rather than spread the topsoil and then have to re-strip it and re-spread it again which would cause a lot of it to become useless.

Mr. Held stated that all but three of the Town Engineer's twenty comments had been addressed by various plan revisions:

- Regarding the previously excavated area and whether there are regulatory reasons why it has to be restored immediately.
- Bonding of the restoration of that area. Mr. Held stated that if the Commission wants a performance bond covering the 18-20 acres, the Applicant would be agreeable.
- Request of the Town Engineer that access to this construction site be guaranteed for a passenger car. Mr. Held stated that he would take exception to this. He stated that he has had no problem getting down the road with his full-sized pickup truck and he said that it is passable for foot traffic.

There was discussion regarding the current bond (some form of cash bond). Ms. Roberson stated that the Town Engineer should review the proposed bond and there should be an agreement. Also, to consider, is the amount for a bond for the previously excavated/never re-claimed land (15-18 acres) which remained unre-claimed for 23 years. The last gravel permit was issued in 1995 at which time bonding requirements were significantly different. Through her research, she found that although bonds were collected, she has not found any evidence of them. She will continue researching. At this time, she cannot say how much of the bonding has been retained.

Mr. Held requested that, the Commission consider that, if Mr. Lehto moves forward with the subdivision and receives subdivision approval during the time period that this special permit is still active, that any restoration bond would be returned and replaced with a bond that would cover the public improvements of the subdivision. Restoration measures/E&S could be built in at that point and it would become a subdivision bond rather than a gravel restoration bond. He also stated that the Commission may find, during the site walk, that some areas, even though not restored, are re-vegetating nicely naturally and may be better left alone. Stumps had been stockpiled alongside with the topsoil and they have deteriorated and have provided more organic material.

There was discussion regarding a wetlands crossing which was either previously approved or has existed for many years.. The IWWC has done a site walk and are aware of it.

Mr. Held was asked how many cubic yards of gravel had been previously removed. He did not know the answer.

There was discussion regarding whether the Town is protected by a bond if the conceptual subdivision does not go forward. Mr. Held explained that would be the current cash bond which is deficient in its amount. He said that the Commission can request a new bond.

There was discussion regarding importation of material. They would be importing up to 50,000 c.y. for final site restoration, not for processing (no screening/washing/crushing). No ponds proposed.

There was discussion regarding River Walk Drive which is not a Town road and is completely on the subject property. It was designed and built as a subdivision road. It only has a binder course of bituminous pavement on it and it was never

submitted to the Selectmen for acceptance by the Town. It was approved as part of a subdivision.

Ms. Roberson noted that a memo from Martha Fraenkel (dated July 26, 2018) was included in packets to Commission Members. Mr. Held confirmed that he had received it via e-mail.

There was discussion regarding Item #17 regarding time of completion in the comments from Syl Pauley (dated May 30, 2018). Ms. Roberson read the response from David Held in his letter dated June 6, 2018, "The excavation is anticipated to be completed by another party who has not been determined yet. Without knowing this we cannot provide an accurate estimated time of completion, however, it will likely be completed within the one year permit period due to the limited amount of material to be removed." Ms. Roberson added that, if it is not completed, they can renew their permit by coming before the Commission (per the Regulations).

### **COMMENTS FROM THE PUBLIC:**

**Marcia Manns**, President of River Walk Condominiums, asked about the cash bond that is being held and what it will cover if this Application does not get approved. Ms. Roberson explained that a series of permits were issued in the 1990's and that she is unable to verify the amount or actual existence of the cash bond. A \$27,000 bond is proposed for the new area and it has been suggested that they would consider a bond to ensure the reclamation of the other disturbed areas. Ms. Roberson stated that she, so far, is comfortable with what has been offered and with the way things are proceeding and that an amount for an additional bond needs to be determined for the other reclamation area. She stated that the site walk scheduled for August 2<sup>nd</sup> at 7 p.m. and is open to the public. She recommended that the Commission discuss the idea of an additional bond and suggested that Mr. Held propose what he thinks is a satisfactory amount for reclamation and that the Town Engineer would review it. She explained the importance of bonding which is usually a condition of approval and is an enforceable item.

**Arlette Dawtridge**, River Walk, asked where the money from the bond goes if Mr. Lehto defaults. Ms. Roberson stated that the Town would call the bond and get the money and could hire someone to finish the work.

**Marcia Manns** asked about hours of operation. Ms. Sigfridson stated that operating hours are typically a condition of approval. Mr. Held stated that the proposed hours of operation are: 7:00 a.m. to 6:00 p.m. Monday thru Friday; 7:00 a.m. to 12:00 p.m. on Saturdays (which is consistent with the Zoning Regulations).

**Ms. Manns** spoke of the bad condition of River Walk Road which has caused problems with residents' vehicles: potholes; stormdrains are up a couple of inches; ice in winter. The Condominium Association has hired someone to sand around mailboxes and stormdrains so that nobody gets hurt because the road is not finished. She said that Mr. Lehto only plowed half of the road this past winter and he said that the residents are responsible for the other side. Ms. Manns asked what guarantee the residents have that Mr. Lehto won't walk away when he gets

all of the gravel out. She said that he walked away from the Condominiums and it was two years before the residents found out. Ms. Sigfridson stated that is the purpose of the bond. Ms. Manns asked if there is a bond that can cover re-doing the road so that it is accepted by the Town. Ms. Roberson explained that if they follow through with the subdivision application, it could be addressed at that point. It cannot be addressed as part of this Application.

Mr. D'Agostino asked the members of the public, who were present, for reasons why they feel the PZC should either deny or accept the Application. Ms. Mann stated that he (Mr. Lehto) promises a lot, but doesn't follow through with anything. They are concerned with whether the road will be brought to specifications once the project is done.

Mr. Held clarified that they are not proposing to build a road or to get a road accepted by the Town. They are proposing the excavation of sand and gravel. The bond posted as a performance bond would cover the reclamation of the sand and gravel excavation site whether of the just the new area or the new area and the area from the 1990's. There was discussion regarding whether or not a bond had been posted for the road. Mr. Held guessed probably not, because houses were built and the road was not completed (top coat of asphalt was not put on) and, if there was a bond, the Town probably would've at least finished that portion of the road.

Ms. Roberson stated that it is important that the public came and relayed their concerns, and the PZC will address them as much as they are able. She suggested that they may be able to address with Mr. Lehto as members of the Condo Association. She stated that it is a relevant issue to this Application that the road was not finished and that there are 40+ units that use the road daily as well as the potential vehicles for the gravel operation. However, she does not feel that the PZC can require that the road be finished as part of this gravel permit.

Mr. Held explained that the road is the first topic of concern during discussions with Town Staff and the Town Engineer regarding the possible future development of the property as the subdivision.

There was discussion regarding a track pad. Mr. Held stated that they would put one anywhere that the Commission wants one, but he explained that it is not needed.

**Arlette Dawtridge** asked that they have no recourse as to the road. Ms. Sigfridson restated/explained that there is no recourse as part of this gravel operation. Mr. Held explained that road acceptance requires action on the part of the property owner.

**Pat David**, River Walk, asked if it were possible, as a good-will gesture, to have a construction road for the hauling. Mr. Held stated that he does not think it would not be feasible. River Walk Drive is the only access for this entire property. 78.32 feet of frontage. Ms. Roberson explained that they would have to traverse private land.

**Arlette Dawtridge** stated that they have to put up with the noise, dirt, and trucks going back and forth constantly. M. Sigfridson stated that the PZC is limited with the conditions that it can place.

**Marcia Manns** added that the road going down toward the River washes out when it rains hard and with heavy equipment, it will get worse.

**Yvette Sahansky** asked if there will be another meeting. The public hearing will be continued.

**Ms. Sahansky** stated that Mr. Lehto has been removing material from the site, but she said that he stopped. Ms. Roberson thanked Ms. Sahansky for the information as she was not aware of this. Mr. Held commented that Mr. Lehto has had an ongoing forestry operation there for an extended period of time, so there could be trucks going in and out associated with that. Ms. Sahansky stated that is true and stated that she has seen some logging trucks. Mr. Held suggested that if someone feels that there is a violation of the Zoning Regulations, they should contact ZEO, Martha Fraenkel, to investigate it. Mr. Held stated that Ms. Fraenkel has visited the site. Ms. Roberson stated that she has seen the machinery related to a legitimate logging operation and commented about the traffic on the road.

Ms. Roberson noted that a letter (dated July 10, 2018) had been received from **Sheila F. Johnson** of River Walk Drive as well as an e-mail (dated August 1, 2018) from Paul Lehto to Ms. Roberson in response to Ms. Johnson's letter. Both are part of the record.

Mr. Held mentioned a memo from Martha Fraenkel (dated July 2, 2018) containing her comments/concerns (included in packets to Commission Members). Mr. Held stated that they are pretty standard conditions and he did not feel that they would take any exception to them.

Ms. Roberson stated that she had expected more detail regarding the reclamation plan. Mr. Held stated that it had been addressed in the narrative. It is the typical, warm-season grass mix which they took from the 2002 E&S Guidelines. Ms. Roberson stated that she had noticed some non-natives in the list.

Ms. Roberson commented that the IWWC probably did not consider traffic impacts and potential dust on the nearby residences. There was discussion regarding whether it is within the authority of the PZC to require that the road be maintained in, at least, the condition that it is in now and not be allowed to deteriorate further as a result of the truck traffic. Ms. Roberson feels there is a good, logical connection between the other users of the road and the impacts of the gravel operation. She will consult with the Land Use Attorney.

The site was was officially scheduled for Thursday, August 2, 2018, at 7:00 p.m., rain or shine. It is open to the public. It will be posted on the website.

Motion was made by J. D'Agostino to continue the public hearing for Application SPG 18-001 Special Permit for Sand and Gravel – Paul Lehto, end of River Walk Drive (Assessor's Map 32, Lot 148), ~70 acres, Proposed removal of 75,000 cubic yards of gravel over 2.7 acres, to September 5,

2018, at 6:30 p.m. at the Clifford B. Green Memorial Building located at 69 South Main Street, Brooklyn, CT. Second by A. Tanner. Motion carried unanimously (6-0-0).

**d. Other Unfinished Business:**

1. **SPG 18-001** – Special Permit for Sand and Gravel – Paul Lehto, end of River Walk Drive (Assessor's Map 32, Lot 148), ~70 acres, Proposed removal of 75,000 cubic yards of gravel over 2.7 acres. Continued.
2. **SD 18-002 10-Lot Subdivision** – Jeff Weaver, 23.7 acres on the south side of Day St. across from the Quinebaug River (Assessor's Map 43, Lot 6A), Proposed 10 residential lots.

Attorney Harry Heller represented the Applicant. Paul Archer, Archer Surveying, and David Held, Provost & Rovero, were also present. Attorney Heller gave an overview:

- Ten-lot subdivision on the southerly side of Day Street.
- RA Zone, minimum requirement of 90,000 s.f. per lot for conventional subdivision.
- Regarding the conventional vs. conservation subdivision issue as discussed at the previous meeting. Attorney Heller explained that, because Mr. Weaver is proposing two duplex homes in the subdivision, the PZC does not have the discretion to decide whether it is to be a conventional design or a conservation design. He noted that the Conservation Subdivision Provisions of the Subdivision Regulations and Chapter 15 of the Zoning Regulations state that duplexes are specifically excluded as a use in a conservation subdivision. Yet, it is a use permitted as of right in the RZ Zone.
- Regarding the letter received from the State Archeologist indicating that this area is an area of potential sensitivity for cultural resources, Attorney Heller noted that it has historically been farmed and the earth has been highly disturbed. Mr. Weaver has retained the services of an archeologist who will begin performing Phase 1B archeological site assessment next week. The study will determine whether or not there are any cultural resources on the property. If there are, under the Regulations, they will need to make arrangements for protection/preservation in accordance with the protocol established by the State Historic Preservation Office. Information should be available by the next meeting.
- In accordance with the Regulations, they are proposing a strip of land to be dedicated to the Town for the future widening of Day Street. Attorney Heller stated that a draft warranty deed had been provided as part of the Application.
- Interior lots in the subdivision to be accessed by virtue of common driveways (one on the easterly portion of the site and one on the westerly portion of the site). Drafts of the joint driveway easements and maintenance agreements have been provided.
- A transmission line which bisects the property in a north to south orientation. Because of the presence of the utility line, they are proposing duplex houses on Lots 2 and 3. The rest of the subdivision is proposed for single-family residences.

- All lots contain the minimum lot area requirement (90,000 s.f.) for the RA Zone.
- Sheet 2 of 7 is the Subdivision Design which contains the geometry for the subdivision for conveyancing purposes.
- The Plan Set that was submitted with the Application also contains conceptual lot design for each of the lots.
- Soil testing has been conducted and submitted to NDDH. They received a letter of approval indicating that all of the proposed septic areas are suitable for on-site septic systems. The project is proposed with both on-site wells and on-site septic systems. Ms. Roberson asked if it included the duplexes and Mr. Archer stated that they had contacted NDDH with that information and that he has an e-mail that he forgot to bring with him. He said that the e-mail states that the septic system proposed there, as four, does not change. Each duplex has a two-bedroom septic system (for two 1-bedroom units). Mr. Archer stated that they are all engineered septic systems. Ms. Roberson asked when it was decided to make the duplexes and Attorney Heller stated that they have always been duplexes and that they will be shown on the revised plans. Attorney Heller explained that there were concerns regarding marketability for single-family residences adjacent to high-tension lines. Mr. Weaver plans to retain the duplexes and to rent them out. Ms. Roberson stated that she has not received information regarding the duplexes from NDDH yet.
- Comments have not been received from the Town Engineer (he will be returning from vacation on Monday). Ms. Roberson stated that she has spoken with him regarding road run-off and a paved leak-off.

There was discussion regarding run-off. Attorney Heller stated that comments will be addressed accordingly.

There was discussion regarding the access strips. The western most one serves Lots 5, and 7 (Sheet 4 – Lot Development Plan). The other whole access strip is part of Lot 8. The existing gravel road will continue to be used by CL&P who has a deeded right to use it.

Ms. Roberson stated that she had referred this Application to the Conservation Commission (next meeting on August 6<sup>th</sup>) and she explained that even a conventional subdivision has an open space requirement that can take the form of land or fee-in-lieu of open space. Ms. Roberson asked if the parcel is located within 500 feet of an adjoining town. Ms. Roberson asked how far away the Quinebaug River is from this parcel. Mr. Archer stated that he had not considered those questions. Notice will need to be sent to both NECCOG and the Town of Killingly.

Ms. Roberson stated that Attorney Alter comments regarding the duplexes were in agreement with Attorney Heller's comments. C. Kelleher stated agreement.

There was discussion regarding the eastern access strip. A. Kerouac questions whether or not an existing easement can be encumbered. Ms. Roberson will get a copy of the easement and she will contact Power Company. She stated that they have the right to cross over it, but she feels



that they don't have the right to prohibit the residential use. Attorney Heller agreed. Discussion continued. Attorney Heller stated that he suspects that the gate would probably get moved back to beyond the limit of the residential development. Mr. Archer stated that CL&P did not put the gate up, it was the two property owners. It was determined that Attorney Alter does not need to be consulted regarding the access strip.

It was decided that a site walk is not necessary.

Motion was made by J. D'Agostino to schedule a public hearing for Application SD 18-002, 10-Lot Subdivision, Owner Jeff Weaver, 23.7 acres on the south side of Day Street across from the Quinebaug River (Assessor's Map 43, Lot 6A in the RA Zone) to the Regular Meeting of the Planning and Zoning Commission to be held on September 5, 2018, at 6:30 p.m. at the Clifford B. Green Memorial Building located at 69 South Main Street, Brooklyn, CT. Second by C. Kelleher. Motion carried unanimously (6-0-0).

3. **SPD 18-002 Special Permit for Sand and Gravel** – FCR Realty LLC, 200 acres north of Brickyard Road and west of Day Street (Assessor's Map 35, Lot 7 and Map 41, Lot 6), Proposed removal of 97,650 cubic yards of gravel over 8.8 acres.

C. Kelleher recused herself.

J. Roberson stated that a public hearing had already been scheduled for September 5, 2018, for this Application.

There was discussion regarding reasons for recusing oneself.

Ms. Kelleher is no longer recused.

4. **Zoning Regulation Rewrite** – Upcoming Public Information Session (August 15 at the Brooklyn Middle School), etc.

J. Roberson received notice from the Brooklyn Middle School stating that the Auditorium would be better place for the August 15<sup>th</sup> public meeting due to floor maintenance. The meeting will start at 6:30 p.m.

There was discussion regarding trying to not have people spread out too much.

There was discussion regarding trying to get Members of other Commissions and Agencies to attend the meeting. J. Roberson sent information to the Radio Station and Newspapers.

Ms. Roberson stated that she had received feedback from Paul and Jeff. The #1 thing is Buildable Area Requirement.

Discussion continued. Glenn Chalder is comfortable with not meeting with the Commission ahead of time.

Mr. D'Agostino will try to get the cafeteria instead of the auditorium.

## **VII. New Business:**

- a. **Applications:** None.
- b. **Other:** None.

**VIII. Reports of Officers and Committees:**

1. Budget – No discussion.
2. Correspondence
  - Notice from the Brookly Public School regarding the use of the auditorium.
  - Letter from the Connecticut Siting Council, dated July 16, 2018, regarding EM-SPRINT-019-180625.
3. Chairman's Report:

M. Sigfridson reported that she had met with J. Roberson and Rick Ives regarding the POCD. There are about 3 years until the deadline. They discussed forming a committee and about hiring a consultant. Mr. Ives had concern for input from the various Town entities being facilitated.

C. Kelleher stated that perhaps, as a way to get more feedback, the PZC should come up with a better way to explain the importance/significance of the document.  
Discussion continued.

**IX. Public Commentary – None.**

**X. Adjourn**

The meeting was adjourned at 8:51 p.m.

Respectfully submitted,

J.S. Perreault  
Recording Secretary