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**Seymour Planning and Zoning Revised Minutes Regular Meeting**  
**7pm January 9th, 2020**  
**Norma Drummer Room**

**Members present:** Joe Ziehl, Tom Lavranchuk, Leon Sloat, Joe Niezelski, Jamie Brennan

**Members absent:** Walter Birdsell

**Others present:** Bill Paecht, Kieth Rosenfeld, Jim Baldwin, Bryan Nesteriak, Pat Sullivan

**1. Call to order**

Meeting was called to order at 8:25

**2. Pledge of allegiance**

Pledge was said at the beginning of the previous meeting.

**3. Seating of alternates**

The chair asked for a motion to seat the alternate Leon Sloat.

Motion by: Tom Lavranchuk

Seconded by: Joe Niezelski

**4. Z.E.O. Report**

Bill Paecht presented the Z.E.O. report to the Commission and asked if they had any questions.

Jamie Brennan stated that there were a lot of calls made.

Bill Paecht said that there are properties for sale in town that many people are interested in and would like to know the zoning regulations for the areas.

The Chair asked if they were mostly positive phone calls.

Paecht answered yes.

**5. Approval of minutes from public hearing 12-12-2019**

The Chair said that he has an H in his name and that needed to be corrected. The word "agreeance" should be agreement. They asked for the pages to be numbered from now on. On page 7, it should be "shade trees" instead of shay trees. Page 9, the wording should be better on the second paragraph, there was a phrase missing.

Motion to approve with corrections: Joe Niezelski

Seconded by: Tom Lavranchuk

Jamie Brennan abstained.

4-0-1

#### **6. Approval of regular meeting minutes 12-12-2019**

Leon was present at this meeting, yet his name was not on the members present list.

Motion to approve with conditions Tom Lavranchuk.

Seconded by Joe Nielski.

Jamie Brennan abstained.

4-0-1

#### **7. Public comment**

No one from the public wishing to speak.

#### **8. Bladen's Ridge Affordable Housing Development**

The Chair reminded the Commission that time is running out to act on this and his goal for this meeting is to at least start on the discussion portion tonight. He would like to do this by getting a quick overview of the criteria to look at that was given to the Commission by counsel from the applicant, and then go into the opinion's of the Commissioners individually for the record. The Commission also has the opportunity to think about it for another month until next meeting when they are required to vote on this. What the Commission is faced with here, is a shifting of the burden, which means unlike most proposals it is not a developer coming in and showing the Commission that they have complied with the statute. What is happening because the developer came in under the **Affordable Housing** law, the burden shifts to the Commission to show that if they **the Commission would have to find that**, the public interest in health and safety clearly outweighs the need for affordable housing. The need for affordable housing in Seymour is shown because the town only has 5.2% of affordable housing. To deny it, we would have to show that the public interest cannot be protected by any reasonable changes to the project. This would have to show in the record that it was truly jeopardizing health and safety. Counsel Pat Sullivan agreed with this statement by the Chair. If the Commission goes against what the law says they must do, they run the risk of an appeal which will cost the Town a lot of money. He then began with his thoughts on the project.

**9. Text Change; Action required by 2/13/2020**

**10. Zone Change; Action required by 2/13/2020**

**11. Bladen's Ridge Site Plan- Continuation of Public Hearing 1/9/2020**

The Chair:

- says when considers all the facts, he feels that there are many people who he feels bad for. Many of these people feel as though their worlds are coming to an end because of this project and he understands that and it is painful to watch. He understands this can happen in his own backyard. He took what everyone said seriously and searched all the testimonies very seriously for things that would support a decision in accordance **with** what the law says. Unfortunately, as tempting as it is to advocate for the crowd and protect the **the people in the room**, he cannot do that. This is not what he is here for. He is here to let the developer develop the property in whatever way conforms with the law. As he went through the record, the things that stuck out in his mind were the fire issues.
- It concerns him that the Fire Marshal had concerns about getting the truck into the area. He knows the Fire Marshal will have final say in the whole situation, so he cannot legitimately have that concern. Other than that, there was no health and safety issues.
- He also reminds the Commission that these are regulations that are being adopted town wide, could another project go in and will that affect this decision. However, after talking with staff and looking at the statutes they have negotiated with the developer, there does not seem to be a problem that could develop on another site.
- In listening to all the expert testimony that the applicant brought in and from our own staff, he understands that they are experts and their opinions weigh more heavily than a lay person standing up to complain. He knows the comments from the public were thoughtful and from the heart, but it does not help him weigh the facts he was hearing and to come to a different conclusion.
- The public's main concerns, including the issues that will be caused by the construction going on up there, was not a serious concern because it will be about the same amount if only 63 units went in.
- The traffic issue bothered him, a lot of the public was concerned about it and the expert that the applicant had did not do a great job on selling the Chair on the situation that was to come. He asked the experts how many more accidents would there be after this building was put in, and the expert answered only 1 more accidents per year. He understands that there will not be people driving 60 miles per hour there and it will be annoying at times but he could not come to the conclusion that makes it a large health or safety issue, and for this reason he is inclined to approve it. He believes it's his responsibility as a Commission member and as a taxpayer to do this.

Leon Sloat:

- Said he did not see anything that stood out to him as a glaring issue, otherwise they would have addressed it. He has no opposition

#### Tom Lavranchuk

- Agreed with Leon Sloat. He agreed with the Chair that the traffic study expert was not convincing, but he believes the data and understands that there is not enough concern there for a health and safety hazard.
- During these public hearings, everyone says similar things that concern them, but the Commission needs to go way above that in order to deny it.
- Affordable housing gets a bad name right off the bat, he is glad the Chair asked a question about the price of the rent during the hearing. He was concerned about the text change at first but Jim Baldwin explained it in layman's terms and he thinks it makes much more sense.
- He felt as though that the traffic expert did not put enough effort into the study.

#### Joe Niezelski

- His only concern was the traffic between Smith St. and Spring St and thinks that it's a good time for the town to fix things over there (Lavranchuk reminded him that there is nothing to fix it because the roads are small and there is still more property in that area that is going to get develop).
- There is nothing to do with the health and safety that will stop it from going in. He is in favor of this project.

The Chair reminded the Commission that sometimes these projects go in, and it ends up being good for the community and the prices of the houses go up in the area.

#### Jamie Brennan

- He has many concerns with the proposed text. He also is concerned about the timeline. He would like to know what the state defines as affordable housing, because only 30% are affordable in the whole complex. (Counsel explained that the state defines it as 30% of the units must be affordable under the statute. This is the law and that's what needs to be followed. There is certainly the possibility to have a complex with 100% affordable units, but most people don't do it that way.)
- He said that he is concerned with the 40 year limit on the affordable housing, which means the percentage will be down again. He is concerned of the oversight that goes into the regulations that Seymour has. He explains that he just would like a more official and buttoned up regulation before approving it.
- He is concerned with the advertisement portion of the affordability, why can they not just advertise the way they are for the market rate units.

The Chair said he remembered the gist of it in terms of their annual reviews and audits for the affordability component, if that is what Jamie is concerned about.

Jamie Brennan said that he is concerned about the 80% and 30%, why is there not just a number in the regulations.

The Chair asked Counsel Pat Sullivan if they were in any way not in compliance with the state statute.

Sullivan said they are in compliance and the reason there is not a number put in, is because the median income changes on a yearly basis so the standard leaves it up to doing the math. So the maximum amount they pay changes on a year to year.

Brennan said he understands he just wishes there was a way to do it so it was less cumbersome to figure out.

The Chair asked how people qualify for the affordability component.

Sullivan said that typically they designate an agency to do this, or the housing authority. They do need to open it up so that people have a fair shot at getting it even if they do not have friends in high places. The whole process is supposed to be transparent.

Brennan asked if we had a Housing Authority to take care of this.

Sullivan answered that could be in the regulation but sometimes that will change and a private party or organization would do it. That is something that would be designated who will look at that. Usually there is a yearly requirement that the affordability project will really show who will collect that data. For example, the units both affordable and market rate, need to be the same. There cannot be cheap/not great looking units that are affordable and beautiful market rate units. What happens in a rental complex, if a unit comes off affordable because the person living in it wants to continue to live there but has an income that is too high, the next available unit becomes an affordable unit so it maintains a 30% affordable complex. She understands that it's cumbersome but this is really the usual way to do things. It is complex but its statutorily required and when a regulation exists a developer is more comfortable using a regulation that exists rather than freewheeling it. This is the time for the Commission to develop a regulation with their own input.

The Chair asked if there was some specific regulations that the Commission drafted.

Jim Baldwin said that there are some talking points but as Pat Sullivan pointed out, these ultimately become regulations for the AHZ. Now is the time to discuss and bring up potential issues.

The Chair wanted to make sure that all Commission members had the most current proposed text amendment dated Dec 9th 2019 because they needed to look at it over the next month.

Jim Baldwin said that they are as up to date as possible. As heard in the testimony, there are a number of things changed by the applicant, from not only testimony from the public but also staff comment. At this point this is what we are looking at Dec 9th draft.

The Chair asked if this was a draft that the applicant was agreeable to because he did not want to make any changes that the applicant were to say no to.

Jim Baldwin answered yes they agree, but in any Commissioner's comments that they agree with or don't agree with that would be very helpful.

Pat Sullivan said if Commissioners have anything they disagree with the text amendment they should speak up now because next month they will essentially just be voting.

Tom Lavranchuk and the Chair said they were both all set with the regulations.

The staff asked what Commissioner Brennan's specific concerns so they could incorporate it into next month. Eventually what will happen is the Commission gives guidance on where they would like to go, staff works on it, consults with each other, and we come back next month with something that they no longer have any questions about.

Jamie Brennan's list of concerns were:

1. 18A - he would like to assign some authority to ensure that the specifics of the affordable housing component are being met
  - a. Pat Sullivan responded that the way this will happen if an affordable housing project were approved, someone would be designated (from the town or a private property) it will be taken care of. That does not necessarily need to be put in the regulations.
2. 18A3- he would like to see existing zoning designation as of this date.
  - a. Bryan Nesteriak told him that the regulation will be effective as of a date that they set in place.
3. 18A5- he would like to know why they would not advertise the same market rate units as the affordable.
  - a. Pat Sullivan explained that one of the reasons for affordable housing is to have police, fire and municipal staff be able to afford to live in town. Sometimes they do this advertising because it ensures that the information is well circulated in town. It is not intended to be less advertisement.
4. Who will oversee compliance on things?
5. C-(last page) No height limit on retaining walls?
  - a. Jim Baldwin said that technically is not maximum height because they're designed by engineers. The way the retaining walls are designed they do what they are supposed to do. If there is a huge issue, they could change that when an application comes in. The state and building codes will take care of this.
  - b. Leon Sloat said that he believes that they intentionally left it vague for situations, such as behind Wendy's in Seymour where there is the rock face and if they put a retaining wall there and there is a limit, it could be argued that the wall is illegal.

- c. Tom Lavranchuk said that if an application comes in and they do not like it, they could change it or strike it out.

The Chair said that they could strike it or take it out, but he is hesitant to do this because maybe the developer put it in for a reason. He thinks everything else looks fine.

Bryan Nesteriak said that this limits them on this issue. If they approve this, and in 10 years someone wants to put in a giant wall they are allowed to do so. If they take it out and decide they would like to put some limitations on wall height later down the road, then the zoning code will help in administering that. It could not hurt by taking it out, it certainly will not hurt the applicant.

The Chair asked for any other comments.

Keith Rosenfeld said that he has worked with the applicant on these issues and he did want to talk about the issues they covered including:

- Parking and the number of parking spots and location.
- Concern for architectural elevation and what the elevations looked like. They were ensured during the public hearing that what we see in the pictures is what we will get.
- Issues with the fire marshal that will be worked out by the fire marshal.
- Storm water which will be worked out by the engineers as part of the approval
- The criteria, recommendations and requirements for the earth removal which is part of the project that the Commission should look at and understand how this process will work and if the regulations meet up with that.

Rosenfeld said that the Town has done a good job making an ordinance to create something that was well put together. He reminded the Commissioners that himself and the rest of the staff will be around within the next month to answer any questions they had about this.

Bryan Nesteriak said that section 7.8 of the zoning regulations actually does have specific limitations on walls which is why the regulation the applicant was written with that exclusion. What he thinks is applicable in this is that fences and walls in residential zoning districts shall be a maximum of 4 feet in height in the front set back and 6 feet from the remainder of the lot. So the options are to leave it in or strike it. Either way the Commission can think about it.

Tom Lavranchuk motioned to table the text change to 2/13/2020 at which point there will be an approval with some tweaks.

Seconded by Leon Sloat

All in favor.

5-0-0

**12. Site Plan 20 New Haven Road- proposed garden and landscape yard; tabled from 12-12-2019**

Jesse Judson a licensed land surveyor from Main St Seymour CT, represented the applicant their application for site plan approval on 20 New Haven Road. The applicant's site plan approval is for a proposed garden center and landscape supply yard which will specialize in the sales and delivery of garden and landscape products including plants, nursery stock, and other products. Judson went over the site plan specifics with a map shown to the Commission. The site will be accessed by a driveway on New Haven Road. in the front of the building there will be customer parking area with 8 cars. There will be a 28 by 36 foot sales building. On either sides of the building will be display areas. On either side of the parking area, there is a nursery stock display area for potted trees. There will be a parcel for employees parking, an area for bagged product storage, and along the back of the property are material bins for earth products. Dumpsters are located to the rear of the property. There is a parking area for delivery trucks as well. The proposed building plan is submitted, the first floor is going to be about 700 sq feet of retail area. The second floor will be a storage area. They are proposing that the building is connected with the town sewer system and the municipal water. They received conditional approval from the WPCA earlier this week.

The Chair asked what they were asking for specifically tonight.

Judson said site plan approval.

Bryan Nesteriak said that for the most part, most of his comments from the previous site plan have been addressed. He mentioned that there is a condition in the regulations that says that there should be no storage or inventory placed in the front half of the yard. He takes that to mean the depth of the front yard. So if they have a 30 foot front yard, 15 feet of it should not be used for the display of inventory but Jesse's inventory is that they are only using half of the yard frontage. The only other item he wanted to point out was the landscaping should be considered what it looks like from route 67 and the site plan is vague in landscape treatments. He did not understand the proposed woven wire fence, they should consider what that would look like.

The Chair asked about the regulation about half the yard, should their front yard display be set 15 feet back?

Nesteriak said the regulation says 50% so half.

The Chair asked if there were other spots in town that had Judson's interpretation of it.

Jim Baldwin said that there were other spots in town that are in violation of it. No one that he knows of has done it this way. He interpreted it the way Bryan interpreted it.

Judson said that he and Baldwin had a discussion on it and Baldwin agreed with him.

Baldwin said this was incorrect and that it was meant to have the half of the display yard to be 25 feet back.

Nesteriak said that there are 2 regulations that need to be considered here.

1. The display of merchandise is allowed to occupy up to one half of the front yard of any parcel in a commercial zoning district.
2. The definition of yard says that the front yard is the yard between the street line and the lot width measurement line. (This makes it clear that is between the front line and the setback line.)

Lavranchuk said it makes sense, but he can see how the applicant came to their conclusion.

The Chair asked if there was anyway to pull it back to the regulated line.

Judson said they could pull it back to 25 feet but he thought when he talked to Jim that they were on the same page.

Lavranchuk said that the 25 feet is not a lot of room for them to display the plants.

The Chair asked if his client was available to talk to the Commission.

The applicant came up and said that it is a very narrow lot and they lose that space from the street to the fence as it is because its state property, and to lose another half back to the building it's a lot of space.

The Chair asked if was something they would do as a condition of approval and he responded yes.

Jim Baldwin said that the applicant could also seek a variance for this regulation.

Bryan Nesteriak said that this is a site plan approval so the landscaping for what it should look like is in their purview but what the landscaping is going to look like is very vague.

Judson said that obviously on either side of the display areas there are nursery stock, between the parking area and the street line they have a landscape display proposed which is not specific because as a landscape and garden supply center, the stock in there will rotate, so there is constantly color and it will be attractive.

The Chair said they're going to move it back to be within the regulation and meanwhile they are going to seek the variance in the meantime.

Kieth Rosenfeld said that in his opinion with these changes and the need for landscaping, they should ask the applicant for an extension to make this. His concern is that he would like the applicant to identify additional landscaping along the side of route 67, additional fencing and to identify the number and types of equipment, trailers, and vehicles that will be stored here overnight. The applicant should show a detailed list of this formalized.

Judson said that the woven wire chain link fence, is really just a chain link fence.

Lavranchuk said he did not think there would be parking there for any other vehicles overnight. He understands what Judson is saying, but if it meets what is going to be put there he should be able to leave it there. Why would we put the restriction on what he can park there.

The Chair said he would be putting the restrictions on himself so that we have the authority to enforce it.

Judson asked what if he buys a new vehicle next year.

Tom Lavranchuk says that he understands what is necessary for an operation of this type but maybe others don't.

Keith Rosenfeld said his main concern is that he needs to know what is necessary for this operation and to ensure that it is not misused for other activities.

Lavranchuk said that he understands his concern but it sounds like it's going to be a nice project and he would like to approve it.

Bryan Nesteriak said that he thinks the potential issue is that this is being applied for a site plan approval landscape yard retail operation and it could turn into a storage yard for a construction company.

Lavranchuk asked if they could put a restriction on it tonight other than what is needed for this business.

Judson asked if they specify a certain piece of equipment today and somewhere down the road the applicant buys a different piece of equipment, do they need to come back for another site plan approval?

Leon Sloat said maybe they could work around the specific number of axles per vehicle.

Jim Baldwin said that this designation of landscape materials for sale was recently added to the zoning regulations in town.

Judson said that he could discuss with his client and see what the thoughts would be about this and getting the variance in the future.

The applicant said that it puts his time line back to give them an extension for another month. They will approve in February and then the weather is going to turn for the worse, where as if they did it now he could get a few things done and be on schedule. He understands the concern with the vehicles.

Bryan Nesteriak said they need an extension in order to move on and if he does not want to give the Commission an extension then they need to make a decision.

Jim Baldwin said they could make an approval with conditions that will be applied after.

Counsel Pat Sullivan said that if the concerns were landscaping, fencing, and the storage of vehicles, her advice would be to put some conditions on it.

The Chair said they need the correct language.

Judson said they are proposing a black vinyl coated fence, the landscaping they can provide the whole front end of the parking area, the whole landscape with flowers, trees and shrubs. In the regulations there are no specific guidelines for landscaping.

Counsel Sullivan said that it sounds like they need a landscaping plan, because it sounds like it is a very high visibility location and they are concerned as to what it will look like and it might be in the applicant's best interest to grant an extension to the next month.

Kieth Rosenfeld said that sometimes you can approve one thing with the list of trucks that go along with a construction business and instead they end up with another. He said he does not mean for this to be offensive but it is only because the land is open and a good place to park.

The Chair said they can either get an extension or they can vote on a site plan that does not conform with their regulations.

Judson asked if they were not conforming to the regulations because of the front half of the lot? They will take care of this and move it back.

Nesteriak said that it was this and some other things. They submitted this site plan and there are issues.

Judson asked what else did not conform.

Leon Sloat said that what Nesteriak is saying is if you do not grant the extension to the Commission, they are forced to vote no on the site plan they have presented. Next month they

would have to have a revised site plan. They should put a maximum on the number of trucks and show that they fit in the site specific area. There is not a restriction on what will go in there, just where it will be and if it can fit.

The applicant asked for time to talk to Jesse Judson and then come back.

Judson came back and stated that all vehicles parked there would be owned by the applicant, an equipment list includes 3 trucks (with up to 6 wheels each) with trailers, 2 skid steers, an excavator and a backup. They will make revisions for the display area. The fence was discussed, its a 6 foot woven wire fence. The landscaping in front will have additionally plantings. Behind the fence, going out to the parking lot will be in the regulations.

The Chair asked to focus on the specific conditions rather than go another month. What they will do is outline and list them and then get you the approval.

Leon sloat made a motion to approve the site plan conditional on 3 things.

1. Moving the plants to the nursery stock storage area back 25 feet
2. The black vinyl woven wire fence
3. Install more plantings along frontage where retail was located
4. Overnight parking vehicles must fit in designated parking in rear and must conform to the list that the client has provided. (the vehicles parking area is located on the land in the south easterly corner of the parcel and approximately 80 feet by 80 feet in size and located approximately 90 feet from the street line. It is outlined in 6 boxes outlined on the plan.)
  - a. 3 trucks (up to 6 wheelers) with trailers
  - b. 2 loaders
  - c. 2 skid steers
  - d. Excavator
  - e. Back load

Tom Lavranchuk seconded.

All in favor.

### **13. Election of officers**

The Chair said that they must authorize staff and asked for a motion to redesignate Mike Marganski, Jim Baldwin, and Bill Paecht as zoning enforcement.

Motion by: Tom Lavranchuk

Seconded by: Joe Niezelski

5-0-0

Tom Lavranchuk made a motion to elect Joe Ziehl as Chairman.

Joe Niezelski seconded.

Jamie Brennan abstained.

4-0-1

Joe Ziehl made a motion to elect Tom Lavranchuk as vice chair.

Leon Sloat seconded.

5-0-0

Joe Ziehl made a motion to elect Tom Lavranchuk as secretary.

Joe Niezelski seconded.

5-0

#### **14. Correspondence**

No correspondence.

#### **15. Adjournment**

Motion to adjourn by Tom Lavranchuk

Seconded by Leon Sloat

Adjourned at 10:14pm.

All in favor.

Submitted by,

Malia McCool