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TOWN CLERK'S OFFICE

Seymour Planning and Zoning Regular Meeting
September 10th, 2020 7:00pm
Minutes

Members Present: Joseph Ziehl, Richard Peck, Jamie Brennan, and Joe Niezelski

Members Absent: Tom Lavranchuk, Leon Sloat

Others Present: Jim Baldwin, Mike Marganski, Kieth Rosenfeld

1. Call to Order

The Chair called the meeting to order at 7:00pm.
The Chair made a motion to rearrange the agenda as follows;

- 8-24 Holbrook Road
- 33 Mead Farm Road
- 76 Great Hill Road
- 20 New Haven Road
- 19 Beach Street
- Kimmer Subdivision
- And then continue with the items 4 through 8.

Motion by: Joe Niezelski
Seconded by: Jamie Brennan.
All in favor.

2. Pledge of Allegiance

The Pledge was already said at the public hearing a few moments ago.

3. **Seating of Alternates**

There were no alternates to be seated.

4. 8-24 Holbrook Road

Keith Rosenfeld read the Holbrook Road Summary, from Brian Nesteriak into the record.
The project consists of the reconstruction of Holbrook Road.
Holbrook Road is a major collector road located on the western side of Seymour along the Oxford- Seymour town line. THe project area consists of approximately 8,200 LF of roadway located between the rotary and the Oxford-Seymour town line. The improvements include the reconstruction of the existing roadway including replacing the existing pavement and base material, improvement to the vertical and horizontal geometric design and associated earthwork which includes the construction of 6 retaining walls. The project also includes stormwater drainages improvements including the installation of piping, structures including manhole,catch basins, headwalls, swales, rip rap aprons and culverts. Utility improvements include relocating existing electrical poles and wires, and relocating portions of the existing sanitary sewer. The reconstruction of Holbrooke Road requires easements from the Town of Oxford, CT DEEP and 8 private property owners. B&B Engineering has worked along the Town Attorneys to obtain all easements from the private property owners. The DEEP and Town of Oxford easements are under review by the respective representatives but are expected to be accepted and filed on with the Town Clerks office.

Keith Rosenfeld said that the directive tonight is to find whether it adheres to the strategies of the Plan of Conservation and Development and each Commission member will vote in support, and then it will be sent to the Board of Selectmen.

Jamie Brennan said he has several questions. One of his concerns is that Counsel was in the room (Bryan Nesteriak the design engineer was present to answer any questions). One of his main concerns/questions is that road is not moving, even though they are widening the road.

Brian Nesteriak said for all intents and purposes, it is the same road in the same place. B&B has received all the easements from the private property owners, most of the easements had to do with grading and sloping because right now the road and the slopes adjacent to the road, there are no shoulders at all. Therefore, the goal is to not only widen the road, but also add a snow shelf, a safety shelf and create proper slopes. This means in some cases sloping must occur and in some cases putting in a wall must occur, and most of the private easements just have that slope to occur. The other easements that need to be required from the state have to be obtained for drainage and sloping, mainly from DEEP. The same reasons apply to the town of Oxford, because they own the property to the west of the road. The DEEP easements need to be approved by the attorney general, so it is taking a while. The town of Oxford is also working on approving the easements with their attorneys.

Brennan asked if it is a town road and if they were pursuing a grant for it.

Nesteriak said it is a town road and they have received approval for the grant, and now they need approval from DOT to conform to their requirements, because they are the ones that provide the money for the grant.

Brennan asked if the Town had recommended roadway drainage approval schedule (the Recommended Roadway Replacement and Improvement Schedule and if we were still looking at the current number (provided on Nesteriak's report) of 5.5 million.

Nesteriak said the current cost estimate is 5.2 million which is being provided by the state. It must be approved by the COG and DOT, both have approved it. Once they have the easements and the rest of the formalities figured out, then they will go out to bid.

The Chair asked about this being sent to the Board of Selectmen.

Rosenfeld clarified that it is a recommendation to the BOS.

Brennan asked if the pump station was at the bottom of the road.

Nesteriak said that they may be moving portions of the sanitary sewer pump line because it is running into the way of the new drainage. In a few areas where it is a four inch cast iron pipe, there may be a few areas where they have to move around in order to keep it flowing. It will not be the entire extent of it.

The Chair made a motion to make a positive referral to the Selectmen's Office on the 8-24 Holbrook Road application.

Seconded by Joe Niezelski.

All in favor, motion passed.

5. 33 Mead Farm Road; Lot Line Adjustment/ Enforcement Action. Result of cease and desist order from the ZEO. Decision required to be made by November 12th, 2020.

Mike Marganski said this is a result of an enforcement action that started to occur last fall. The owner is now purchasing property from the adjoiner where the infraction had occurred and with the Commission's approval this will now bring it to a conforming lot with no negative impact to either side.

The Chair asked at this point if the cease and desist would then be vacated.

Karen Fisher clarified that she represents the Daddio's whom are the adjacent property owners where his building was encroaching onto the Daddio's property. She confirmed that they have reached an agreement with the applicant and with the lot line revision approved, they will transfer the property identified over to them.

Keith Rosenfeld said that there is no reason why this should not be approved.

Brennan said that a majority of applications do not seem to be filled out, they are missing addresses and custom data relevant to the applications. He requests in the future, that everything be filled in that is appropriate.

The Chair asked if he was talking about this application in front of the Commission right now.

Brennan said yes and others.

The Chair made a motion to approve the lot line modifications.

Joe Neizelski seconded it.

All were in favor. Motion passed.

6. **76 Great Hill Road; Lot Line Adjustment. Decision required to be made by November 12th, 2020.**

Karen Fisher, representation for the owner. Their property borders the Comcast property which is directly behind them. Several of the Comcast parking spaces were placed on her client's property. In order to rectify this encroachment issue, they will be transferring property from us to Comcast, if it is approved.

Brennan asked if there was a map, he checked with the Building Dept. a few days ago and they did not have anything. (Fisher provided him with a map. She pointed out the revision and the setback.)

Rosenfeld said that there is no reason to not approve this. It is a simple correction of an overzealous land survey. It does not make either of these properties non-conforming.

The Chair made a motion to approve the lot line revision.

Seconded by Joe Niezelski.

All in favor. Motion passes.

The Chair made a motion to add the item of Election of the Secretary, to the agenda.

Joe Niezelski Seconded.

All in favor. Motion passes.

7. **Election of Commision Secretary**

Jamie Brennan nominated Joe Niezelski to be the Commission Secretary.

Seconded by Joe Ziehl.

All in favor. Motion passes.

8. 20 New Haven Road; Temporary Site Plan Modification. Previous modifications to expire on September 12th, 2020.

Jesse Judson addressed the Commission and is representing this applicant. He gave a brief history of this project. Currently, the building is still under construction while the applicant is open for sale. There have been no conflicts. They are in front of the Commission to ask for several small modifications.

1. They would like the temporary sales shed to remain permanent for outdoor sales (not in place of the building).
2. Temporary expansion of the parking area was granted temporary with 5 to 8 spaces, they would like the 8 spaces to remain permanent for employee and customer parking.
3. They would like to install an onsite septic system that is connected to the sewer. There was approval from the WPCA to connect to the street line, they paid the impact and connection fee, however, there was no area onsite found suitable. There are four employees and minimal water usage used in the one restroom. It is more sensible for a septic system.
4. Self imposed deadline of Sept 30th for completion of the building would like to be extended to December 31st.

Jamie Brennan asked if they have received Valley Health approval for any of this. He said when he was at the Valley Health the other day, they had not found a suitable site.

Judson said yes, Valley Health was out there yesterday. He explained that they needed to dig a 20 foot wide, 40 foot long, 7 foot depth hole to take steps for the Health Dept. They would like to put the spetic in right away, so they dug the hole, wanted the Commission's approval and then the Health Depts approval. He said they were only out there yesterday.

Brennan asked if he had a letter from the Health Dept.

Judson said no, however, they are going to approve it and if they do not approve it they will have to connect to the sewer, which is already approved.

Brennan asked if the well they have on site was only an irrigation well.

Judson said yes and they will be connecting to the public water service. Everything he is asking for complies with the regulations.

The Chair asked Keith Rosenfeld about his letter dated Sept. 2nd 2020 in which he outlined the original approval conditions that the board placed on the approval and outlined the modifications made last time. He asked him to go into more depth.

Rosenfeld said he wanted the Commission to understand that this process started in January, there were expectations that have been modified and it is up to the Commission to understand what those changes were, what the modifications are and understand that this process from the start was a site plan. It is an observation of not being for or against, just advising the Commission of what they originally expected to get and what you are currently getting now. At the end of the day, it is not very different from the original site plan, except for the timing. The applicant is reminding the Commission that with Covid and these uncertain times, it really led into this.

The Chair said that the Commission has no authority with septic anyways, which Rosenfeld confirmed was correct. He said that the only thing that jumped out to him was the 5 to 8 spots. He asked about the problems they had approving the spots.

Rosenfeld said that the issue was the parking of construction equipment. However, the regulations put in place are being followed. He said he has no problem expanding from 5 spaces to 8, because they have done the spacing properly and everything else. He said 8 is a reasonable number and he has no problem with it.

The Chair said he did not see any problem with the sales shed in addition to these things. He asked Rosenfeld to clarify a portion of his letter.

Rosenfeld said that he meant to consider any additional things within those zoning requirements that are set forth by the original site plan review, so the entire first approval not including the changes the Commission made. He said that the staff's recommendation was that there is no problem with these requests.

Bill Peck asked for clarification on item number 4, the extension of the deadline of Sept. 30th to December 31st. He said he understands a lot has to do with Covid, but with this particular building there are contractors on site day and night. He asked if snow storms in December will be considered unforeseen circumstances. He wants to know why they did not hit the September deadline.

Judson said there were numerous issues with Covid, some building materials are not readily available, it affects other aspects of people's where timing and availability were reduced.

The Chair asked what the recourse would be if the Commission extended the deadline to Dec. 31st and they came back yet again to ask for an extension.

Keith Rosenfeld said at that point the zoning officer could send a cease and desist order letter to the applicant to immediately stop all sales, until the building is complete.

Peck said he was okay with that. He would just hate to see this constantly extended.

Rosenfeld said that the Commission would approve this and suggest that the expiration date is December 31st, therefore the temporary modifications would only be good until that time. Once the time is up, the cease and desist would be sent based on their not adhering to the zoning regulations. The zoning officer will report back to the Commission that the building has not been completed and the cease and desist has been sent out, with an expiration date, the zoning officer would not even need the Commission's approval. He explained the process for that.

Mike Marganski said upon completion of the building, he would go out and review that all the conditions agreed upon were met, he would review that with the town planner, and if it is insufficient at that point, they would issue the cease and desist and the building department would send a memo, and the applicant would have the ability to appeal as normal. If all is well, a certificate of zoning compliance will be issued.

Keith Rosenfeld clarified, if these changes are approved as desigered by the applicant, they must get the septic system approved by the Naugatuck Valley Health. If that is not done, then it will need to be installed. If the Zoning officer goes out and sees no septic and no sewer hook up, it is an incomplete structure.

The applicant, Mr. Cox, said that he did not see a problem with getting it done by the end of the year. It really had to do with contractors being so tied up with multiple jobs and the material availability.

The Chair said he just wanted to make sure the applicant understood that on December 31st, it will be very severe, even if these things happen again.

The applicant said he understood and he will do everything he can to get it done.

Peck asked if they would like to split the recommendations into two separate motions. He thinks that everyone is in agreement for items one through three, but there is some disagreement on number four and the expiration date might be different.

The Chair agreed.

Peck made a motion to approve modifications one through three as per the letter dated August 31st.

Seconded by the Chair.

Yes- Joe Ziehl Yes- Joe Niezelski Yes- Richard Peck

No- Jamie Brennan

Peck made a motion to approve modifications of item number four as of on the letter dated August 31st 2020, upon completion of the building by December 31st 2020, and if not completed, a cease and desist order letter will be issued.

Judson said he agreed.

All were in favor. Motion passed.

9. 19 Beach Street; Site Plan/Enforcement Action. Result of a cease and desist order from the ZEO. Decision required to be made by November 12th, 2020.
Mike Marganski said that activity was occurring on the upper lot of this property which is on Route 67. They were installing the wall and generating a possible parking lot without any permits or any information at all given to the Zoning office. Subsequently a cease and desist for the activity was issued sometime in November of last year. The applicant is before the Commission today to respond to the cease and desist. The applicant was trying to come before the Commission before Covid, but this is the first opportunity he has to go in front of the Commission and present his application for a site improvement. He said speaking to the activities on his lawn, the initial comments of the applicant are talking about a parking lot, although in previous conversations with staff members, it may not solely be a parking lot. Keith Rosenfeld said that this is a site plan that requires 65 days to make a decision, and it needs to be done in time. They have been extended because the start date is today.

The Chair said that Brian Nesteriak needed to get together with the applicant's engineer to work out some of the details.

Nesteriak said that he will put together a list of all his concerns and submit it to the Commission and the applicant and they can decide if they would like to respond in whatever way feels appropriate.

The applicant said he understood, and they have gone back and forth a few times. He clarified that they were not looking to build a huge parking lot. He said when they began, the building was a mess especially, on the Route 67 side. They are okay with going back and forth trying to resolve this issue. They are open to granting the extension if need be.

The Chair explained that Brian will be writing a letter to them and he knows the regulations, so as long as it complies with the regulations there will be no problem. He said that they will see them next month.

10. Kimmer Subdivision; 3-Lot Subdivision. Discussion of proposed subdivision, referral to Town Planner and Town Engineer. Possible scheduling of Public Hearing.

Mike Marganski said this was about a 7 acre piece of property with wetlands in the area. For the longest time this was a single family home, but over the course of a number of years this became a property in total disrepair. As the Blight officer, he received many calls, so in an effort to eliminate the Blight on the single family house, he was able to encourage the owners to either rehabilitate the property themselves or find someone who could do it. After working on it for a year themselves, they had put the property back on the market. Mr. Kimmer had purchased the property as a single family of 7 acres. He fixed up the property and the situation is something similar to what they had on Humphrey Street. The applicant came in and requested the first line cut and to apply for the subdivision. He said that in the staff's standpoint he is very much in support of what he has done with the property. He does have concerns from the Wetland perspective but that will go before that Commission on Sept. 28th.

Nesteriak said that today was the first day he saw the plans, he would have to go through an extensive review of it for wetlands and for planning and zoning.

The Chair asked why they should not have a public hearing.

Nesteriak said that the only reason they should not have a public hearing was if the Commission thought it was in the town's benefit or if additional time was necessary to make that decision. He reminded the Commission it was up to them to make a decision.

Scott Kimmer said he is the owner, and the house is just about completed with the renovations that it needed. It is just a basic three lot subdivision.

The Chair asked Kimmer to talk about the neighboring area.

Kimmer said that the neighbors are single family residential homes, spread out pretty well. Above this property are houses that look as though they did exactly what he is looking to do now. Kimmer described their lot and where they are on Mountain Road.

Mike Marganski said that in regards to the topography, that is Mountain Road. If someone were to come up from Route 67 or New Haven Road, it is just a little bit more gentle grading, especially where there is a bend (it is a snake turn). The interesting thing about Brooke Street is there are two roads with no intersection at the end of them. The property has not been touched in a number of years. The neighbors may or may not have concerns about this, only because the property has not been touched in a number of years.

The Chair said he was inclined to let the staff take a look at it and come back next time to make a decision, as well as some information from the Wetlands meeting on the 28th.

The Chair made a motion to table this to the next meeting.

Seconded by Jamie Brennan

All in favor. Motion passes.

11. Z.E.O Report

Mike Marganski presented a list of enforcement activities that have occurred to the Commission. Most enforcement activities have been or are very close to being resolved. He pointed out the owner of 31 Silvermine Road, which was the site plan approval that the Commission had been given during the summer, requested a modification to the site plan. They wanted an additional patio in the front, and it was approved by the staff in accordance with the regulations. Marganski continued summarizing the enforcement activities. He said that even with Covid, the department has done very well.

Brennan asked if the site line issue on Tomlinson Road was resolved.

Marganski said that 3 Tomlinson Road started out as a fabric structure that was not permitted and then the owner built onto that with no permits at all. It was an illegal structure. On Sept 3rd, staff got permission to handle it and the shed is now down, so therefore there is no issue.

12. Public Comment

No public comment.

13. Approval of Regular Meeting Minutes; March 12th, 2020
Jamie Brennan made a motion to approve the minutes.

Seconded by Joe Niezelski.

All in favor. Motion passed.

14. Approval of Public Hearing Minutes; March 12th 2020
The Chair asked to clarify if the applicant, Mr. Steves said, "he gave the neighbors the opportunity to express their opposition by mailing out letters" which contradicts an earlier statement. They would like this to be double checked.

Motion to approve the minutes as amended by Jamie Brennan.
Seconded by Joe Niezelski.

Richard Peck abstained. Motion passes.

15. Public Comment
There was no public comment.

16. Correspondence
There was no correspondence.

17. 143 North Street; Application for Zone Change-Continuance of Public Hearing at 6:45 p.m. Public Hearing to close and decision required to be made by November 12th, 2020
The Chair said he had testimony from staff that the proposed zone change does not comply with the Plan of Conservation and Development and increase the nonconformity, as stated in the letter from Keith.

The Chair made a motion to deny the application based on the fact that the Commission has found it is not in compliance with Seymour's Plan of Conservation and Development and it would also increase the nonconformity of the lot.

Joe Niezelski seconded.

All in favor. Motion passes.

Jamie Brennan made a motion to add commissioner's comments to the agenda.

Joe Niezelski seconded it.

All in favor. Motion passes.

18. **Commissioner's Comments**
Jamie Brennan just wanted to comment about the public notice that goes out to Voices. He said that Voices does not get delivered to Knorr Street. He suggested putting the information on the town's website or putting it on a sign. He just wanted to make the Commission aware that this paper does not go to the entire town of Seymour. He also asked to see completed applications

instead of incomplete ones. He also mentions that when looking at applications, it says "as attached" however, when he went to the building department a few days ago to see the maps, there was nothing available.

The Chair asked if there was an alternate publication option, other than Voices.

Keith Rosenfeld said that a few years ago the newspapers lobbied to keep the public notifications with the newspapers. He believes the statute says "a newspaper of substantial circulation". Regardless, he said he will take the comments into consideration for the future.

19. Adjournment

Jamie Brennan made a motion to adjourn.

Seconded by Joe Niezelski.

All in favor. Motion passes. Meeting closed at 8:37pm.