

**GLASTONBURY TOWN PLAN AND ZONING COMMISSION
REGULAR MEETING MINUTES OF TUESDAY, JANUARY 15, 2019**

The Glastonbury Town Plan and Zoning Commission with Khara Dodds, AICP, Director of Planning and Land Use Services, and Jonathan Mullen, AICP, Planner, in attendance held a Regular Meeting in Council Chambers of the Town Hall at 2155 Main Street, Glastonbury, Connecticut.

ROLL CALL

Commission Members Present

Mrs. Sharon H. Purtil, Chairman
Mr. Raymond Hassett (Acting Secretary)
Mr. Christopher Griffin
Mr. Robert J. Zanolungo, Jr.
Mr. Matthew Saunig, Alternate
Mr. Scott Miller, Alternate

Commission Members Excused

Mr. Keith S. Shaw, Vice Chairman (Absent)
Mr. Michael Botelho, Secretary (Absent)

PUBLIC HEARINGS

1. Application of William M. Dufford for conditional subdivision approval for the 3-lot River Road Subdivision, Phase 3 involving an easterly extension of Dufford's Landing – Assessor's Lots S-4 Dug Road & S-3A Dufford's Landing – Rural Residence Zone & Groundwater Protection Zone 1

Attorney Meghan Hope of Alter & Pearson, LLC appeared before the Commission to present her client's application for conditional approval for Phase 3 of the River Road Subdivision, which consists of 3 lots at the east end of Dufford's Landing. Ms. Hope stated that the application is for the approval of 3 lots, which extend the road by 550 feet. The Town approval standard for roads is a 10% vertical grade and a 2:1 slope for roads. Ms. Hope stated that the Town Engineer expressed a preference of less than a 7% grade of that section of the road, so the applicant complied. In total, between the 3 lots and the Town-approved road, 75,000 cubic yards of material will be removed.

Attorney Hope specified that in 2003, the Commission approved the first phase of the River Road Subdivision, and in 2006, approved the second phase. In April 2012, the applicant wanted to do additional excavation and the Commission approved an extra 19,000 cubic yards of material. Ms. Hope stated that the subdivision plan has been consistent since 2003, with the same layout of 3 lots in the Rural Residence Zone.

Mr. Jonathan Sczurek, Civil Engineer for the applicant, reviewed the plans, noting that the development area is approximately 3.7 acres. He also noted the current grade of Dufford's Landing is 4% at its intersection with Tryon Street, 8.5% at its steepest point, 2% in the middle of the road, and 7% at the cul de sac. The site performance activity will be performed in 2 phases. Mr. Sczurek stated that the requirements of Section 20 of the Groundwater Protection Regulations are met, soil testing was deemed acceptable by the Health Department, and storm drainage will be installed. On January 8, 2019, the Town Engineer submitted comments. Mr. Sczurek read a letter with his follow-up to those comments. He then submitted a memorandum from the Water Pollution Control Authority stating the project is outside of the sewer service area and did not need a waiver for capped sewers.

Commissioner Miller inquired about the scope of the excavation and if the applicant would need a special permit to excavate further. Attorney Hope responded that the Building-Zone Regulations have exceptions for certain excavation activities that do not require a special permit. Since this is considered bona fide construction activity, the applicant does not need a special permit. Commissioner Zanolungo asked how long it would take to excavate. Ms. Hope stated that it will take around 3 years (25,000 cubic yards a year for a total of 75,000 cubic yards). Attorney Hope then explained that the removal would take place in 2 phases. Phase One would start at the far east and head west. Phase Two would start at the cul de sac heading east to meet at the middle of the second lot.

Chairman Purtill stated that in order to qualify for an exception to submit a special permit, the applicant needs to have an idea of what he will be building, and it doesn't look like that is the case here. She inquired what the difference is in the amount of excavated material between what would have happened if the applicant had an excavation permit versus the subdivision plan. Mr. Sczurek stated that it is probably somewhere around 1/3 less.

Chairman Purtill followed up by asking whether this excavation is unnecessary. Mrs. Dodds replied that it is typical for excavations to go with a subdivision plan. The 7% grade was viewed as reasonable by engineering staff, and the Conservation Commission's role is to review the existing topography and recommend preserving it where possible.

The Chairman also expressed concern at the 4,000 excavation trucks (2,000 each way) using the existing route on Dug Road as their access road because it butts up against the adjacent property line. She asked whether the applicant could propose a route to move trucks away from neighbors' streets. Ms. Hope stated that she will ask the applicant.

Chairman Purtill called for public comment.

Attorney Mark Branse, Halloran & Sage, LLC, representing Michael Blair of 65 Dufford's Landing, stated that the issue at hand is a procedural question of whether or

not this application meets the exception from an excavation regulation. Attorney Branse stated that he agrees with Attorney Hope's assessment that excavation within the right-of-way does not need a permit. However, excavation outside the right-of-way does need a special permit. Attorney Branse stressed that there is no question that an excavation is needed but asked how the excavation can be done that it is minimized. If the excavation application and subdivision application were filed at the same time, then it would allow the Commission to view the request in its totality. Mr. Branse commented that the applicant is supposed to excavate first then sell off lots—not the other way around. The Commission cannot condition approval of a subdivision on a future application because the applicant will say they have to approve the subdivision, and the opponent will counter that the Commission prejudged. Either way, the Commission will lose, so both have to be heard at the same time.

Attorney Branse summarized that, according to Section 10.7(b) of the Subdivision Regulations, there is a clear standard to preserve the existing topography and keep deviations to an absolute minimum. Mr. Branse concluded by stating that he provided the Commission with a copy of a 1980 Glastonbury case, which discusses the Commission's authority in regard to cases of subdivision and excavation, where the Town sued and won. Attorney Branse stated that he showed the document to the applicant this morning, to prepare them beforehand.

Engineer Matt Brown was asked to review the proposed design plans to determine if an alternative plan can exist. Mr. Brown stated that his proposed design would significantly reduce excavation, while also conforming to the Town's standard of a 10% road grade. The 3 lots would come up equally with the elevation of the roadway, and all the grades in the disturbed area of the property would be raised an equal amount, which would reduce the excavation by approximately 20,000 cubic yards. The plan would also save approximately 1 acre of tree clearing and disturbance, for a total reduction of 45,000 cubic yards in all 3 areas. Mr. Brown also felt that alternatives to the applicant's proposed draining system exist. The remaining 35,000 to 45,000 cubic yards could be disposed and would not affect any further development. Mr. Brown stated that this alternative plan will minimize the impact to the subdivision, as well as to the neighbors on Dug Road.

Attorney Branse returned to the podium to state that, though the Conservation Commission gave a favorable recommendation to the Town Plan and Zoning Commission, they rejected an appeal from a private citizen for an extension, so they did not see the alternative design proposal that Mr. Brown presented before the Commission this evening.

Commissioner Zanolungo asked if this plan was presented to the Conservation Commission. Attorney Branse stated that due to time constraints, their engineers could not be present at the meeting that was held. Secretary Hassett asked whether Attorney Branse took exception to Subsection B of the regulations. Attorney Branse responded that the applicant's maintenance of a bona fide excavation is simply circumventing the excavation permit. Commissioner Miller asked Mrs. Dodds if the excavation could be moved to other areas of the property. Mrs. Dodds stated that it would still have to be stabilized.

Attorney Carl Landolina of Windsor Locks, representing 3 families on Dug Road, stated that there is a section in the Commission's subdivision plan that must conform with zoning regulations in order to be approved, which it does not in this case. Mr. Landolina stated that one must interpret regulations like one interprets statutes, and the interpretation that is being offered by the applicant will yield a bizarre and unworkable result. Attorney Landolina's comments are summarized in the following bullet points:

- Subsection A applies here. Within 50 feet of the right-of-way, the construction of the extension to this road is clearly exempted.
- Subsection B in regard to excavation operations states "within a premise." It does not say within any number of premises.
- Subsection C: The Commission used the plural "subsections", but they state only one subsection as needing approval in this application, though there are 3 premises.
- Section 10.7 requires the lowest possible disturbance to the existing topography, which this plan does not do.
- Section 10.7c in regard to the guidelines of the subdivision regulations to preserve existing structures: steep slopes of 20%, yet most of what is proposed alters this.

Michael Blair of 65 Dufford's Landing stated that he was at the Conservation Committee meeting, which ran past 11 P.M., and requested an extension, but the Commission denied him permission to do so. Mr. Blair explained that he and his family live on the cul de sac of Dufford's Landing, within inches of the now-proposed subdivision. Mr. Blair stated that he is not against the subdivision but against excavation next to their homes, which will be a long, drawn-out process. Mr. Blair alleged that the applicant is seeking to maximize the materials he can sell from the excavation of the road, and he fears further excavations years down the line, as the increasingly residential community suffers from commercial excavation, and home purchasing values go down.

Chairman Purtill stated that she would like the Town Engineer to review the proposal. Commissioner Miller asked the Commission if they also need a special permit application, and how they would analyze the subdivision application in this context. Mrs. Dodds stated that it is not required and falls under the exemptions. Commissioner Miller followed up by asking if the Commission were to find that the exemption did not apply, would they have to deny the subdivision application? Mrs. Dodds replied that the Commission could add a condition to the subdivision approval to require an excavation permit if necessary.

Attorney Hope returned to the podium to state that Mr. Brown's design does not remove material from the property but pushes it further into the property, which is not an option for the applicant since it is currently farmland. Mrs. Hope also stated that she checked with Town staff to ensure that the applicant's proposal fell within the procedures. She concluded by stating that the applicant will wait for the Town Engineer to review the newly presented proposal before responding.

Mr. Sczurek also returned to the podium to state that Mr. Brown's plan was almost 11 feet higher in the cul de sac, so that would put them up to a grade of 111 (versus the applicant's grade, which is 100). He stated that the engineers could adjust the grades, but they would have to assess the impact that would have on future lots.

Chairman Purtill stated that there is a history for why excavation operations within a subdivision have been approved in this way, and the Commission is trying to balance the developer's right to develop his property with the rights of the abutting property owners. Commissioner Miller stated that he would like the applicant to look at higher elevation and less excavation.

The applicant, William Dufford, of 593 Tryon Street asked the Commission if they support farming in Glastonbury or not. Mr. Dufford stated that he is simply trying to continue his farm but is upset with how much anger this has caused his neighbors.

Attorney Hope stated that she reviewed the 1980 case that Attorney Branse presented and she would like to point out one major difference between that case and this proposal. In that case, the developer went in with a plan and he over-excavated from the plan he presented; this applicant is not doing that.

Chairman Purtill stated that, in addition to the presentations made tonight, several emails were also sent in regard to this application and are included in the report.

The Commission came to a consensus to continue the public hearing until their next regularly scheduled meeting.

Motion By: Commissioner Miller

Seconded by: Commissioner Hassett

MOVED, that the Town Plan and Zoning Commission will continue the public hearing for the application of William M. Dufford and Suzanne Dufford for conditional subdivision approval for the 3-lot River Road Subdivision, Phase 3 involving an easterly extension of Dufford's Landing – Assessor's Lots S-4 Dug Road & S-3A Dufford's Landing – Rural Residence Zone & Groundwater Protection Zone 1.

Result: Motion passes unanimously. (6-0-0)

2. Application of the Town of Glastonbury for renewal of a Section 6.2 Excavation Special Permit – 1145 Tryon Street – Bulky Waste Facility – Reserved Land Zone POSTPONED

REGULAR MEETING

1. Informal session for the purpose of hearing from citizens on Regular Meeting agenda or non-agenda items

Attorney Mark Branse thanked the Commission for putting the packets online, and announced that on March 23, 2019, the Connecticut Bar Association will hold their biannual land use program. The \$55 fee will be covered, and should any commissioner wish to attend, they should let the Director of Planning and Land Use Services know. Commissioner Hassett inquired if the event would offer CLE credits. Attorney Branse stated that attendees will receive 1.5 hours of CLE credit.

2. Acceptance of Minutes of the December 11, 2018 Regular Meeting

Motion By: Chairman Purtill

Seconded: Commissioner Miller

Chairman Purtill MOVED that the Town Plan and Zoning Commission accepts the minutes of the Regular Meeting of December 11, 2018 as presented.

Secretary Hassett abstained from voting, stating that he was not present at the December 11, 2018 meeting.

Result: Motion passes with one abstention. (5-0-1)

3. CONSENT CALENDAR

- a. Scheduling of Public Hearings for Regular Meeting of January 29, 2019: to be determined**

4. Proposed Text Amendments – Forestry Operations/Timber Harvests

Mrs. Dodds presented a memorandum from the Office of Community Development, stating that the Town is reviewing forestry operations in order to make the Building-Zone Regulations compliant with State Statutes. The text amendment is a matter of changing some verbiage, which would exempt forestry operations from the special permit currently required. Commissioner Miller inquired whether on-premise saw mills would be included in the amendment as well. Ms. Dodds stated that the Commission can refer the revisions to the Subcommittee. Chairman Purtill stated that she would rather just move it to Town Council, who can then decide if the Subcommittee should see it or not.

5. CRCOG Regional Planning Commission representative and alternate appointments

Representative Christopher Griffin was recommended for re-appointment to the CRCOG Regional Planning Commission, and the new Commissioner, Alice Sexton, was recommended as an alternate.

6. Chairman's Report —NONE

7. Report from Community Development Staff

Mrs. Dodds stated that a preliminary subdivision plan has been submitted for 19 lots on Chestnut Hill Road; the applicant is looking for initial feedback. Also upcoming is an application for

redevelopment at the corner of Sycamore and Linden Streets. Mr. Mullen added that a proposal has been received for the former Piatti's Restaurant space.

Motion By: Secretary Hassett

Seconded: Commissioner Miller

MOVED, that the Town Plan and Zoning Commission adjourns their Regular Meeting of January 15, 2019 at 9:02 P.M.

Result: Motion passes unanimously. (6-0-0)

Respectfully Submitted,

Lilly Torosyan

Lilly Torosyan

Recording Clerk