

**THE GLASTONBURY TOWN PLAN AND ZONING COMMISSION
REGULAR MEETING MINUTES OF TUESDAY, MARCH 3, 2020**

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

Mr. Robert Zanolungo, Jr., Chairman
Ms. Sharon Purtil, Vice Chairman
Mr. Michael Botelho, Secretary
Mr. Keith S. Shaw
Mr. Raymond Hassett
Mr. Christopher Griffin
Ms. Alice Sexton, Alternate (left at 7:54 P.M.)

Commission Members Absent

Mr. Matthew Saunig, Alternate
Mr. Scott Miller, Alternate

Chairman Zanolungo called the meeting to order at 7:02 P.M.

1. Voting on the application of William M. Dufford (public hearing closed) for final subdivision approval for the 6-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 – Alter & Pearson, LLC

Ms. Dodds reiterated that the public hearing is closed. She explained that, in the commissioners' packets, there is a motion of approval, as well as a finding of fact. She noted that, the Building-Zone Regulations state that the Town Plan and Zoning Commission shall consider the exemptions under Section 6.2.4. If the Commission determines this application should be approved, they should consider those exemptions as part of their approval. If they determine that this subdivision falls within the exemptions of 6.2.4, they should look at those exemptions and see under which exemptions this subdivision falls. Ms. Dodds explained that the applicant is amenable to certain standards in Section 6.2.7, under excavation operation standards, such as hours of operation and dust control, sedimentation and erosion control. If the Commission chooses to apply any standards of Section 6.2.7, they should stick to those areas in which the applicant was amenable.

Commissioner Shaw stated that this is the first time they have to identify which part of the subdivision falls under a certain section of the exemptions. Ms. Dodds replied that while the Commission has not done this with an application to this point, it is now apparent that the Building-Zone Regulations require that the Town Plan and Zoning Commission consider the

exemptions for excavation as set forth in Section 6.24. The Town Attorney advised that there has to be some level of specificity as to the detailing of these exemptions and the reasoning as to how the Commission arrived at their determination. Vice Chairman Purtill stated that she has not seen this level of specificity in the last 15 years. She agreed with Commission Shaw that they have to make a finding for every subdivision, which is not their standard.

Commissioner Hassett stated that this is a slippery slope. The application and the configuration of the land makes this a unique case. He asked, if the applicant agreed to certain operational standards, are those now part of the application and, as a result, the Commission is incorporating that into their decision? Ms. Dodds explained that she would not consider them a part of the application, but at the last meeting, the applicant agreed to these standards. Ms. Dodds advised that the Commission should not impose conditions that may be burdensome and to which the applicant did not agree.

Motion by: Secretary Botelho

Seconded by: Vice Chairman Purtill

MOVED, that the Town Plan and Zoning Commission approve the application of William M. Dufford and Suzanne Dufford for final subdivision approval - 6 lots - River Road Subdivision Phase III - westerly portion of Assessor's Lot S-4 Dug Road and northeasterly portion of Lot S-0003A Dufford's Landing - Rural Residence Zone and Groundwater Protection Zone 1, in accordance with the following plans:

“OVERALL PLAN RIVER ROAD SUBDIVISION - PHASE 3 PREPARED FOR WILLIAM DUFFORD GLASTONBURY, CONN. MEGSON, HEAGLE & FRIEND 81 RANKIN ROAD GLASTONBURY, CONN. 06033 PHONE (860) 659-0587 CK. BY: JHS DRW.BY: ZTA DATE: 6-8-18 SCALE: 1"=100' SHEET 2 OF 14 MAP NO. 34-18-10A REV. 10-25-18 STORM DRAINAGE DESIGN & GRADING REV. 12-17-18 TOWN ENGINEER COMMENTS REV. 1-15-19 TOWN ENGINEER COMMENTS REV. 4-30-19 SIX LOT LAYOUT REV. 7-8-19 REV. 8-12-19 EROSION & SEDIMENTATION CONTROLS REV. 10-3-19 CONSERVATION CONDITIONS OF APPROVAL”

“SUBDIVISION PLAN RIVER ROAD SUBDIVISION - PHASE 3 PREPARED FOR WILLIAM DUFFORD GLASTONBURY, CONN. MEGSON, HEAGLE & FRIEND 81 RANKIN ROAD GLASTONBURY, CONN. 06033 PHONE (860) 659-0587 CK. BY: JHS DRW.BY: ZTA DATE: 6-8-18 SCALE: 1"=40' SHEET 3 OF 14 MAP NO. 34-18-1S REV. 10-25-18 STORM DRAINAGE DESIGN & GRADING REV. 12-17-18 TOWN ENGINEER COMMENTS REV. 1-15-19 TOWN ENGINEER COMMENTS REV. 4-30-19 SIX LOT LAYOUT REV. 7-8-19 REV. 8-12-19 EROSION & SEDIMENTATION CONTROLS REV. 10-3-19 CONSERVATION CONDITIONS OF APPROVAL”

“TOPOGRAPHIC MAP RIVER ROAD SUBDIVISION - PHASE 3 PREPARED FOR WILLIAM DUFFORD GLASTONBURY, CONN. MEGSON, HEAGLE & FRIEND 81 RANKIN ROAD GLASTONBURY, CONN. 06033 PHONE (860) 659-0587 CK. BY: JHS

DRW.BY: ZTA DATE: 6-8-18 SCALE: SHOWN SHEET 4 OF 14 MAP NO. 34-18-1PLS
REV. 10-25-18 STORM DRAINAGE DESIGN & GRADING REV. 12-17-18 TOWN
ENGINEER COMMENTS REV. 1-15-19 TOWN ENGINEER COMMENTS REV. 4-30-19
SIX LOT LAYOUT REV. 7-8-19 REV. 8-12-19 EROSION & SEDIMENTATION
CONTROLS REV. 10-3-19 CONSERVATION CONDITIONS OF APPROVAL”

“PLAN AND PROFILE DUFFORDS LANDING RIVER ROAD SUBDIVISION - PHASE 3
PREPARED FOR WILLIAM DUFFORD GLASTONBURY, CONN. MEGSON, HEAGLE
& FRIEND 81 RANKIN ROAD GLASTONBURY, CONN. 06033 PHONE (860) 659-0587
CK. BY: JHS DRW.BY: ZTA DATE: 3-4-19 SCALE: 1”=40’ SHEET 8 OF 14 MAP NO. 34-
18-1PP REV. 10-25-18 STORM DRAINAGE DESIGN & GRADING REV. 12-17-18 TOWN
ENGINEER COMMENTS REV. 1-15-19 TOWN ENGINEER COMMENTS REV. 4-30-19
SIX LOT LAYOUT REV. 7-8-19 REV. 8-12-19 EROSION & SEDIMENTATION
CONTROLS REV. 10-3-19 CONSERVATION CONDITIONS OF APPROVAL”

And

1. In compliance with:
 - a. The standards contained in a report from the Fire Marshal, File 19-034, plans reviewed 11-12-19.
 - b. The recommendation of the Conservation Commission contained in their memorandum dated September 26, 2019.
2. In adherence to:
 - a. The Town Engineer’s memorandum dated November 13, 2019.
 - b. The Sanitarian’s memorandum dated November 6, 2019.
 - c. The Police Chief’s memorandum dated November 8, 2019.

Disc: Commissioner Shaw stated that the Commission needs to determine if an exemption applies before going into the details of which exemption applies and how and why. Vice Chairman Purtill agreed with an earlier comment by Commissioner Hassett on the unique nature of the topography of this application. Secretary Botelho stated that subsection 6.2.4(a) applies to any excavation activity within the roadway, but the question becomes about excavation activities beyond the roadway, and whether that is covered by another exemption, or combination of exemptions, or no exemption at all. Vice Chairman Purtill stated that they do not need to deliberate because the applicant has said that building permits shall be pulled for the road as the road construction proceeds. She suggested making that a condition of approval for this application.

Commissioner Hassett agreed with Vice Chairman Purtill that the roadway is clearly exempted under subsection (a) and some of the area around it is bona fide construction, so it is exempted under subsection (b). Commissioner Shaw expressed a different take on how the Commission is defining excavation activity that occurs outside of the road. He finds that subsection (b) applies to any excavation activity outside of the road after a building permit has been acquired. Since the applicant has agreed to acquire building permits for the excavation of the area adjacent to the roadway, that activity would be exempt under subsection (b). Furthermore, the

activity would be under the supervision of the Building Official, who will then determine whether or not the applicant needs to acquire an excavation permit.

Commissioner Griffin stated that he does not share the perspective of other commissioners that the area outside could be attributed to subsection (b). Just a slope for a roadway does not require a building permit. He thinks that subsection (c) would apply more closely than (b) for the sloping of the roadway but there is a hard cap at 600 cubic yards of material removed for that exemption. He also does not agree on expanding the meaning of 'within' (subsection a). While the applicant has agreed to certain conditions, the Commission is setting a precedent for others to do this kind of work without a permit. Commissioner Griffin stated that he would apply the regulations as written, and if they have to change them, so be it. He summarized by saying that he does not believe that subsections (a) or (b) apply, and he is not in favor of the application moving forward.

Vice Chairman Purtill explained that the difference between a special permit for excavation and a subdivision approval is that at the end of the project, the ground is returned to some sort of level area instead of building lots. The sole purpose of an excavation permit is for removing material. Commissioner Griffin conceded that what Ms. Purtill was referring to was the Commission's past practice, however, the current situation might be an opportunity to change the regulations.

Commissioner Hassett expressed that they need consensus from this Commission on what the applicant says is the roadway here. A discussion ensued on the maps presented and what constitutes the road in this application. Vice Chairman Purtill pointed out that this Commission does not typically require a building permit for site work associated with a subdivision. Commissioner Shaw added that, if the Commission required a building permit, it would be shifting the burden on to the applicant, and the Commission may have to condition every future developer to submit building permits in order to finish the road.

Vice Chairman Purtill stated that people have a right to subdivide their property. She noted that the Commission cannot determine that the applicant has to acquire an excavation permit before development because it is not possible for the applicant to meet all of the requirements to acquire such a permit. Commissioner Shaw asked if they could simply make a general statement that it is the Commission's opinion that an excavation permit is not required. Ms. Dodds advised that it is better to say that the application falls within the exemptions.

The Commission agreed to amend the motion with the following conditions:

Amendment by: Vice Chairman Purtill

Seconded by: Chairman Zanolungo

1. Prior to the start of excavation beyond the actual right-of-way as depicted on the proposed subdivision plan (sheet 4 of 14), the applicant shall make application(s) to the Town Building Official for the construction of the proposed lots for which the excavation is said to occur.

Disc: None

Result: Motion amended with one abstention from Commissioner Griffin (5-0-1).

Amendment by: Vice Chairman Purtill **Seconded by:** Commissioner Hassett

2. There shall be no screening of excavated material.

Disc: None

Result: Motion amended with one abstention from Commissioner Griffin (5-0-1).

Amendment by: Vice Chairman Purtill **Seconded by:** Commissioner Hassett

3. Operating hours for excavation operations shall be restricted to weekdays (Monday through Friday), between the hours of 7 a.m. and 4 p.m. Excavation operations shall not be allowed on legal State holidays. Equipment startup and/or engine idling on or adjacent to the subject property shall not be permitted prior to the approved hours of operation.

Disc: None

Result: Motion amended with one abstention from Commissioner Griffin (5-0-1).

Amendment by: Vice Chairman Purtill **Seconded by:** Commissioner Hassett

4. All equipment and machinery shall be maintained in good repair and operated in such a manner as to minimize noise, vibration, smoke, dust, unsightly conditions and any other nuisance.

Disc: None

Result: Motion amended with one abstention from Commissioner Griffin (5-0-1).

Amendment by: Vice Chairman Purtill **Seconded by:** Commissioner Shaw

5. To prevent spillage from vehicles or equipment and windblown air pollution, any truckload of earth material which is to travel on a public street shall be covered with tarpaulin or other suitable material. All commercial haulers shall utilize vehicles clearly marked with the hauler's name and an identification number.

Disc: None

Result: Motion amended with one abstention from Commissioner Griffin (5-0-1).

Amendment by: Vice Chairman Purtill **Seconded by:** Commissioner Shaw

6. The Applicant shall provide proper drainage at all stages during and after completion of the excavation operations to prevent the collection and stagnation of water, interference with or disturbance of the flow, banks or bed of any watercourse, the erosion of the subject property or adjoining properties or any other harmful effects to adjoining properties or the future use of the subject property.

Disc: None

Result: Motion amended with one abstention from Commissioner Griffin (5-0-1).

Amendment by: Vice Chairman Purtill

Seconded by: Commissioner Shaw

7. All overburden, if any, shall be stockpiled in windows or concentrated piles and stabilized so as to prevent its erosion by either wind or water and so that it does not become a source of dust or other windblown air pollutants.

Disc: None

Result: Motion amended with one abstention from Commissioner Griffin (5-0-1).

Amendment by: Vice Chairman Purtill

Seconded by: Commissioner Hassett

8. It shall be the responsibility of the applicant to repair immediately, any damage to any sidewalk, curbs, surface drains or other improvements or utilities that may be caused as a result of the excavation operations.

Disc: None

Result: Motion amended with one abstention from Commissioner Griffin (5-0-1).

Amendment by: Vice Chairman Purtill

Seconded by: Commissioner Hassett

9. Proper safety measures shall be utilized and strictly adhered to at all times to protect the health, welfare and safety of all individuals and property.

Disc: Commissioner Shaw asked what is “the surrounding area” because there is no guideline here. Vice Chairman Purtill stated that it is anything around where the applicant is digging dirt. Ms. Dodds agreed that it is very vague.

Result: Motion amended with one abstention from Commissioner Griffin (5-0-1).

Amendment by: Vice Chairman Purtill

Seconded by: Commissioner Shaw

10. Access roads to the site from Dug Road shall be set back at least 50 feet from any abutting property line.

Disc: None

Result: Motion amended with one abstention from Commissioner Griffin (5-0-1).

The Commission then discussed the finding of fact (not a condition of approval).

Amendment: Secretary Botelho

Seconded by: Commissioner Hassett

The excavation associated with the subdivision is found to be exempt from special permit requirements for excavation, filling or removal of earth products, as described in Section 6.2 of the Town of Glastonbury building zone regulations. However, because of the extensive nature of the excavation associated with the subdivision, the Commission found it necessary, and to which the applicant agreed, to include certain excavation operation standards set forth in Section 6.2 of the Town of Glastonbury building zone regulations.

Disc: Commissioner Hassett noted that they are setting the conditions and inquired whether this is something that the applicant agreed to. Vice Chairman Purtill answered that, at the public hearing, the applicant agreed to adhere to these standards. Commissioner Griffin remarked that these powers are not in the subdivision regulations. He does not think that the Commission has an inherent power to enact these conditions without the consent of the applicant.

Result: Motion passed with one abstention from Commissioner Griffin (5-0-1).

The Commission returned to deliberate on the original motion.

Disc: Vice Chairman Purtill expressed support for the motion, stating that they have done what they can to protect the neighbors. Commissioner Hassett stated that when the current application originally came in, shortly after the excavation permit was denied, he was very suspicious of it, but the intent of the applicant is to proceed and develop this lot, and he hopes that that is the case. He hopes the applicant will take into consideration the needs of the community and conduct operations in a manner and mechanism that will benefit everybody. He reiterated that the Commission is constricted by their regulations. He believes the application is a bona fide excavation and he will vote in favor of it. He also thanked Commissioner Griffin for his valuable input in regard to this application.

Commissioner Shaw echoed the sentiment of striking a balance wherein the neighbors' concerns are satisfied as well. He wished the applicant luck and success and hopes that this

excavation is conducted sooner rather than later. Secretary Botelho expressed that this has been an arduous process. They have tried to weigh the concerns of the neighbors against the interest of the applicant's ability to utilize their land. In the end, he is satisfied with the result, acknowledging that while it is not perfect, it is a proper resolution to the conflict. He will support the application. Chairman Zanolungo thanked his fellow commissioners for their input and guidance and remarked that the content of Mr. Dufford's character lends him to believe that this will be done in a timely fashion, bullied by the fact that there will be a \$1 million bond. He appreciates the public's comments, and he will be supporting the application.

Result: Amended motion passed with one vote against, from Commissioner Griffin (5-1-0).

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

Ms. Sharon Perham of 234 Addison Road read a letter expressing her concerns with the proposed plans for a new condominium complex across the street from her home. Ms. Perham stated that the development will negatively impact her home value, but her larger concern is safety for students in the area, noting that an accident has already occurred across from the stop sign on Eastern Boulevard. The added traffic so close to the school could produce the potential for more accidents. To mitigate this concern, she suggested the developers enter and exit from Eastern Boulevard, thereby taking away traffic on Addison Road. She ended by stating that she welcomed Jeff Sawyer's design, which fits with the residential area. She also thanked the Commission for their service to this town.

Chairman Zanolungo thanked Ms. Perham for attending the subcommittee meeting and speaking out here. He explained that when the application comes to the Commission, there will be another public hearing, and he invited Ms. Perham to attend and share her thoughts there, as well.

3. Acceptance of Amended Minutes of the February 18, 2020 Regular Meeting

Motion by: Commissioner Griffin

Seconded by: Vice Chairman Purtill

Result: The amended minutes were accepted as presented with one abstention (5-0-1). Commissioner Hassett was not present at the meeting, so he abstained from voting.

4. CONSENT CALENDAR

- a. Scheduling of Public Hearings for Regular Meeting of March 17, 2020: **to be determined**
- b. Request of Shops on Main, LLC for a one-year extension to commence construction pursuant to Section 12.7 of the Building-Zone Regulations - Special Permit with Design

Review for Building 3 of the Shops on Main - 2951 Main Street - Planned Business & Development Zone

Motion by: Secretary Botelho

Seconded by: Commissioner Shaw

The Glastonbury Town Plan and Zoning Commission hereby moves the consent calendar as presented.

Result: The consent calendar was unanimously approved (6-0-0).

5. Chairman's Report *None*

6. Report from Community Development Staff *None*

There being no further business to discuss, Chairman Zanlungo adjourned the meeting at 9:12 P.M.

Respectfully Submitted,

Lilly Torosyan
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Recording Clerk