

**MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
AUGUST 12, 2009**

ROLL CALL:

Members Present: Eugene Sierakowski, Chairman
Joseph Diminico, Vice Chairman
Kevin Dougan, Secretary
Salvatore Mancini
Andy Kidd

Alternates: Eric Prause (sitting for F-147 & F-148)

Absent: Matthew Galligan

Also Present: Renata Bertotti, Senior Planner
Matthew Bordeaux, Environmental
Planner/Wetlands Agent
Gary Anderson, Senior Planner
Ginger MacHattie, Recording Secretary

The Chairman opened the Public Hearing at 7:02 p.m. The Secretary read the legal notice for the application when the call was made.

KENT ELLIOTT – 110 Utopia Road – change of use to place of worship in Industrial zone –
Special Exception (E-48)

Mr. Frank Borawski, a professional engineer and agent for the applicant, explained that his client wishes to convert the former Body Fit building into the new location for Faith Tabernacle Church, currently located on Woodbridge Street. The applicant received a variance to locate the church on a local from the Zoning Board of Appeals. The gym was located here for fifteen years with no traffic problems. The church will be a better fit because its hours are different from normal operational hours associated with industrial uses. The Town's Traffic Engineer is satisfied with the traffic analysis. The building will be fully sprinklered. The applicant has proposed screening for the dumpster and the handicap parking spot will be restriped.

Ms. Bertotti said there are no outstanding staff comments and reminded the Commission members of the general criteria in Article IV Section 20 of the zoning regulations that should be used for making their decision. She said the applicant meets all specific requirements except the location, for which a variance has already been granted.

In response to a question from Mr. Prause, Mr. Borawski said the dumpster will be screened with vinyl fencing per the Town's standards.

Chairman Sierakowski asked that anyone wishing to comment on this application come forward. There being no public comment, the Chairman closed this item of public hearing.

TOWN OF MANCHESTER PLANNING AND ZONING COMMISSION – Subdivision

Regulation Amendments (T-495)

Ms. Bertotti stated that recently the Planning and Zoning Commission became aware that certain provisions were lacking from the Manchester the Subdivision Regulations. The Commission asked the planning department to revise the regulations to address two main objectives. Ms. Bertotti said Objective #1 was to revise or add new provisions for the preservation of natural features, to control significant changes to the topography, and to address issues related to the off and on-site transport of surface earth material. She said Objective #2 was to implement a 100% bonding requirement for public improvements. Ms. Bertotti reviewed a PowerPoint presentation for Commission members and the public. The proposed revisions are as follows:

- Section 4.05 (b): language was revised to include rock formations and adverse earth formations or topography. Ms. Bertotti explained this is the existing section in the current subdivision regulations that deals with unsuitable land. Under the current subdivision regulations she said the Planning and Zoning Commission shall not approve the proposals for subdivision if it finds that the land is unsuitable for development due to its geographical nature because of flooding, improper drainage, steep slopes, etc. To the list of the geographical features that can make the parcel of land unsuitable, Ms. Bertotti explained the rock formations and adverse earth formations or topography were added.
- Section 4.06 (b) and (c): under current regulations these subsections provide provisions that prevent land locking of adjacent lands to the proposed subdivisions. Since both subsections deal with reserving parcels for future street connections, the proposed text combines these two subsections under Section 4.06 (b) and modifies them slightly with respect to reserved parcels having to be wide enough. The proposed text reads that reserved parcels must be at the minimum street right-of-way as is required under the Public Improvement Standards. Further, the additional text is proposed under 4.06 (c) to address the temporary cul-de-sacs which are also currently required under the Manchester Public Improvement Standards, she said.
- Section 4.10: addresses the preservation of natural features. Ms. Bertotti explained this section has been significantly revised. The revised document requires all existing natural, man-made, and scenic resources to be preserved and protected to the greatest extent possible. Staff identified those resources to include stone walls, steep slopes that are steeper than 25%, ledge outcropping, trees that are larger than 30" in diameter at grass height, rare and unusual flora and fauna, etc. She said the Commission can require specific action to preserve these resources and outlined those actions. The Commission can require that a subdivision plan be redesigned, that a lot layout be modified, and open space be relocated. The Commission can further require conservation easements for the reduction of proposed building lots, etc.
- Section 4.11: was added to address the relation to the topography and the movement of material. Ms. Bertotti said this section allows for the requirement of an excavation permit through the zoning regulations when more than 10,000 cubic yards of material is to be moved on, off, or within the site. Ms. Bertotti explained that currently the zoning regulations exempt approved subdivisions from excavation permits, which is a common practice in regulating subdivisions in the State. Actually, in doing this research she reported reviewing about 12 different towns and found only two regulated excavations on approved subdivisions and only under certain circumstances. The Town of Southington was used as a model for the current proposal that is being presented to the Commission.

Ms. Bertotti said if the Commission adopts the proposed text and a proposal for subdivision includes this new section 4.11, the Commission will have the ability through the zoning regulation to require a public hearing, prohibit removal of material within 50 feet of the property line, control nuisance of noise, lime dust and rock, prohibit on-site location or maintenance of fixed machinery screening, sifting, washing and crushing of material and limit the timeframe on the permit. All this, she said, is currently within the zoning regulations under excavation permit regulations.

Ms. Bertotti said Objective #2 was to implement a 100% bonding requirement for public improvements. Ms. Bertotti explained that under the current regulations the Town of Manchester does not require a public improvement bond to be posted with the Town unless the building permit for construction is applied for or the applicant wants to sell the lots. The revised text requires 100% bonding for the installation of public improvements for all subdivisions before any work can begin. When a subdivision is to be developed in phases and the phasing plan is approved by the Commission, a bond can be posted in phases. Ms. Bertotti explained that an existing provision by which 25% of a bond up to \$100,000 must be paid in cash or in a letter of credit remains unchanged, so that even with the 100% bond requirement 25% of it will still have to be paid in cash or in a letter of credit.

Ms. Bertotti then explained that there were an additional two objectives that were developed by the staff to clarify and streamline the plan and application requirements and that those were implemented in the proposal as well. She explained that plan requirements are now stated in a manner that is consistent with the regulations, Public Improvement Standards and the application check list. She said a check list was created and is available on line that mirrors the requirements in the regulations and hopefully will help the applicant to verify that all required information is provided prior to the submittal. Ultimately, she said the goal is to limit the number of staff comments that result from the lack of information and hopefully speed up the approval process. Additional detail is requested to ensure that enough detail is provided.

Ms. Bertotti said the erosion and sediment control plan requirements include calculation for erosion control structures and storm water treatment systems as well as loam and seed specification. A section was added to allow the PZC and its agent to provide progress reports. Section 5 outlines the plan requirements including showing existing resources, zoning districts and table, additional information required in the grading and engineering plans, as well as some outdated terminology. With this Ms. Bertotti concluded her presentation and asked if there were any questions.

Chairman Sierakowski invited anyone wishing to comment on this application to come forward at this time.

Attorney Joel Janenda, representing The Andrew Ansaldi Company, said he understands that these regulation amendments are mainly in response to problems with the Birch Mountain Subdivision; however, the amendments will impact every developer and any future development. He asked Commission members to keep in mind that any regulations imposed on use of property is an infringement on property rights and suggested the Commission be mindful that the regulations should go no further than necessary.

Attorney Janenda had several questions for the Commission. The first centered around the

wording change in Section 4.05. He said the proposed language states, if the PZC finds the land unsuitable for subdivision or development and lists a number of reasons. Attorney Janenda asked how the developer would know. Many of the reasons listed existed in the area where Tonica Springs was built, but those are now some of the nicer homes in Manchester. Attorney Janenda is concerned that there are no standards in the regulations. He said specific standards are needed that will trigger review.

Attorney Janenda said he took issue with the proposed changes to Section 4.10, which he said would allow the PZC to require the developer to redesign the subdivision. This provision does not allow the developer to sit with an engineer and develop the best proposal for the site. The Town has regulations that permit cluster subdivisions, which are generally initiated by the developer and not Town staff. Attorney Janenda said that Section 4.10 takes all privileges of being a property owner away from the developer. Attorney Janenda mentioned other issues with the amended regulations, including excavation, intersections, and the additional burden imposed by the storm water management plan.

Mr. Prause noted Mr. Janenda's objection to the section on the preservation of natural features and asked if Mr. Janenda would find it fair if the characteristics and size were more clearly defined.

Attorney Janenda answered in the affirmative and explained that many communities use provisions governing this area effectively. He said the regulations as presented do not allow the developer to know what will be a trigger for the PZC. Many developments in Manchester have steep slopes and rock outcroppings as well as large trees which were cut down. A developer must know the standards.

Mr. Diminico asked Mr. Janenda if he would attend the next public hearing and provide documentation, suggestions, ideas, recommendations and criticisms if the hearing were to be left open. Attorney Janenda said he would like to submit specific comments to specific sections and could do that well before the next meeting so Commission members have time to review his comments.

Ms. Bertotti noted that in addition to Attorney Janenda's comments, she received an e-mail from Mr. Kornburst, which she forwarded to the members of the Commission. She also received a comment from Bonnie Potacki in support of the excavation permit.

Mr. Kidd asked if the Town Attorney will review Attorney Janenda's comments before this returns to the PZC and Ms. Bertotti said that she will make that request.

Mr. Mancini said he would like to keep the hearing open and thanked Attorney Janenda for his presentation. He said it seemed like a few things needed to be clarified and reviewed by the Town Attorney. He made a motion to keep the public hearing open.

Mr. Diminico agreed that the Town Attorney should look into the regulations and encouraged Attorney Janenda to provide his comments so the Town Attorney, Planning Department, and Engineering Department can review them. He seconded the motion to leave the public hearing open.

MOTION: Mr. Mancini moved to continue the public hearing on the proposed subdivision text amendments. Mr. Diminico seconded the motion and all members voted in favor.

TOWN OF MANCHESTER PLANNING AND ZONING COMMISSION – revisions to the Zoning Regulations at Article IV Section 11.02.01 (d) and at Article IV Section 11.03.02 (a) – Zoning Regulation Amendments (T-494)

Ms. Bertotti explained that these revisions are directly linked to the Subdivision Regulation amendments. She said that in developing these revisions, she contacted 12 towns and only 2 regulate subdivision development by limiting earth excavation. She recommended the Commission close the public hearing, but wait on deciding on the zoning text amendment. She said she received one comment from the Eighth Utilities District. The zoning text amendment was sent to CRCOG which saw no conflict.

Chairman Sierakowski asked that anyone wishing to comment on this application come forward at this time. There being no public comment, the Chairman closed the public hearing portion of the meeting at 8:37 p.m.

NOTICE: THE CASSETTE TAPE RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.

OFFICIAL TAPE NO. 1048, 1049