

**MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
SEPTEMBER 9, 2009**

ROLL CALL:

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

Alternates: Eric Prause (sitting)

Absent: Eugene Sierakowski, Chairman
Matthew Galligan

Also Present: Mark Pellegrini, Director of Neighborhood
Services and Economic Development
Renata Bertotti, Senior Planner
Ginger MacHattie, Recording Secretary

The Chairman opened the Public Hearing at 7:05 p.m. The Secretary read the legal notice for the application when the call was made.

TOWN OF MANCHESTER PLANNING AND ZONING COMMISSION – Subdivision
Regulation Amendments (T-495) - Continuation

Acting Chair Diminico asked anyone wishing to speak on this matter to come forward at this time.

Patricia Borjestedt, 70 High Ledge Circle, spoke in favor of the amendments to the subdivision regulations. She said the Town has changed drastically in the last 30 years and she believes it is in the Town's best interest to make the regulations stronger. She said this subdivision is a disaster and she hopes the changes to the regulations will prevent the same thing from occurring again. She was glad to see a public improvement bond included since the Town currently has no recourse for the lack of compliance. She suggested some language that would, in her opinion, strengthen the Town's enforcement position. Ms. Borjestedt expressed concern that the proposed regulation for the amount of material to be removed was no longer included in the proposal. The removal of a great amount of material from a construction site is stressful on the surrounding neighbors. She implored the Commission to make sure the changes go far enough to protect residents from greedy developers.

Eric Kornbrust, 59 High Ledge Circle, said he was not aware the regulations had been revised again and asked if the revised language addressed the processing of materials. Mr. Diminico confirmed the original language that contained the 10,000 cubic yard threshold which could trigger the requirement for a special exception is being suggested for removal from this proposal.

Mr. Pellegrini explained that the proposed amendments were based on the review of comments made by Attorney Janenda and a review by the Town attorney's office. The revisions were submitted to the Commission by Town staff, but the Planning and Zoning Commission makes the final decision on what to include in the regulations.

Mr. Kornbrust said he was not aware of the changes but is still in favor of the amendments. He knows the goal is to avoid the same situation that occurred in the development next to his home. He is also in favor of the bond for public improvements. This will allow the Town to complete the project if it is abandoned by the developer. Mr. Kornbrust asked if the changes would take effect before October 1, 2009. Ms. Bertotti explained that the Planning and Zoning Commission sets the effective date of the regulations. Approximately three days are needed after a vote to publicize the decision.

Attorney Janenda suggested allowing the public to comment once the revisions are reviewed.

Richard Demarse, 480 Dennison Ridge, referred to an article in the Journal Inquirer that says sweeping changes proposed in the regulations have been toned down. He said that the idea of restrictions on private property is an accepted idea that applies to all sorts of property today. He said it is not unusual for a developer to present building plans a number of times before he receives approval. A developer should be presenting very detailed proposed development plans. Mr. Demarse mentioned several developments that had been built in harmony with the environment.

Ms. Bertotti reviewed the changes made to the regulations since the last meeting. She noted Attorney Janenda's previous comments that the 10,000 cubic yards requirement in proposed Section 4.11 was not specific enough and too low a volume. She said the Town Attorney's opinion is the threshold of 10,000 cubic yards is specific, but suggested the Commission consider addressing this issue through the zoning regulations. Ms. Bertotti said the Town staff is in general agreement that regulating earth excavation through the zoning regulations would be the best way to accomplish the desired outcome.

Mr. Pellegrini added that in section 4.11 of the original regulations, the word "may" was used which created a weakness in the proposed regulation because of its arbitrariness. He said no guidance was provided as to when a special exception would be required aside from the 10,000 cubic yard threshold.

Mr. Diminico suggested that a zoning amendment to include excavation in subdivisions should be put on the agenda in the very near future if the Commission takes this route.

Mr. Kidd commented on the amount of due diligence and the comments from the attorneys and the public. He said the proposed changes look reasonable and thanked Town staff for its efforts.

Acting Chairman Diminico opened the hearing for further public comment at this time.

Attorney Janenda said in his original comments he indicated he was mindful of the Birch Mountain issues. He said if the Town wants to regulate processing and crushing, there are other ways to do that. He appreciated the courtesy of continuing the public hearing and the Town staff's work in addressing his comments. Attorney Janenda suggested an amendment to the zoning regulations and gave a copy to each Commission member.

There being no further public comment, the Acting Chairman closed the Public Hearing portion of the meeting at 8:15 p.m.

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

OFFICIAL TAPE NO. 1051