

**Planning & Zoning Commission**  
**Unapproved Minutes**  
**September 6, 2017**

Chairman Graveline called the meeting to order at 7:00 p.m. The meeting was recorded.

**Members Present:** J. Crumb, A. Havican, D. Santoro and K. Kemp, G. Graveline

**Alternates Present:** G. Ploski and R. Blanc

**Absent:** None

**Others Present:** None

**Approval of Minutes:**

**Motion** made by A. Havican, seconded by K. Kemp to approve the minutes of 8/16/17 as amended. **Unanimous.**

**Motion** made by D. Santoro, seconded by A. Havican to approve the minutes of 8/30/17 as amended. **Unanimous.**

**Correspondence:**

**I.** Invoice from DTC, On-Call Prospect Town Engineer, RE: 33 Coachlight Circle; Professional Services from June 11, 2017 to August 5, 2017, in the amount of \$405.00, dated 8/22/17. **Motion** made by J. Crumb, seconded by A. Havican to authorize payment of an invoice dated 8/22/17, in the amount of \$405. 00 from DTC, On-Call Prospect Town Engineer, Re: 33 Coachlight Circle; Professional Services from June 11, 2017 to August 5, 2017. **Unanimous.**  
**Motion** made by A. Havican, seconded by D. Santoro to place correspondence on file. **Unanimous.**

**Public Participation:**

George Benedetti, P.E., 260 Wooding Hill Rd., Bethany, CT appeared and presented before the Commission a survey map by Andrew J. Flanagan Land Surveyor for Dr. Martin Rutt for a lot line reconfiguration and subdivision plan dated 9/1/17: lot line revision, from 3 lots to 4 lots. Page 1: Lot 1 - #7 Ridgewood Club Road; Lot 3 - #104 Cook Rd; and Lot 4 - #108 Cook Rd. Page 2: Lot 1 - #7 Ridgewood Club Road; Lot 2 (New Lot); Lot 3 - #104 Cook Rd; and Lot 4 - #108 Cook Rd, and Page 3: Driveway profile map for Lot 2. The Commission will review the plan and discuss at the next meeting.

Ted Hanson, 6 Richard La. appeared before the Commission to speak on behalf of Scott Eisenlohr, if the Commission was still considering a candidate for Land Use Officer. T. Hanson advised that he had worked on his property with S. Eisenlohr in the Land Use Office of the Town of Winsted and found him to be very knowledgeable and easy to work with. T. Hanson advised that he felt that S. Eisenlohr would be a good fit for Prospect. The Commission thanked T. Hanson for his time.

**New Business:** None

**Old Business:**

*Jane Valetkevitch, 33 Coachlight Circle-Application for a 4-Lot Re-subdivision Cont'd.* The Commission received a revised Stormwater Management Report dated 6/30/17, revised as of 8/15/17; Letter from DTC, Andrew Bevilacqua, Associate & Manager of Civil Engineering dated 8/30/17 for review of Revised Subdivision Application; Letter from DTC Andrew Bevilacqua, Associate & Manager of Civil Engineering dated 9/5/17 for review of Revised Subdivision Application; Letter of Transmittal dated 9/5/17 for Site Development Plan; 33 Coachlight Circle, Hardcopy of Storm Water Management Report dated 6/30/17, revised as of 8/15/17; Site Development Plan (C1), 8 (1 page) copies, 33 Coachlight Circle dated 1/25/17, revised with engineering comments as of 9/5/17. *Brian Panico*, of HE Cole & Son presented before the Commission with a revised Site Development Plan (C1), revision date of 9/5/17, advising that the 5-lot re-subdivision application had been revised to a 4-lot re-subdivision and the Town's consultant DTC had asked for changes to storm-water management, showing not just peak flow but total volume as well. A letter received from DTC dated 9/5/17, advised that HE Cole & Son had met their requirements for storm-water management; the new Site Development Plan (C1) had all comments from DTC with a revision date of 9/5/17. *Chairman Graveline* read into the record the 'draft' Resolution of Approval. *Chairman Graveline* asked for comments. *J. Crumb* commented that the revision to the site plan was well done and Chairman Graveline agreed due to the constraints on the property. No further comments were made. **Motion** made by J. Crumb, seconded by D. Santoro to approve the Application for Jane Valetkevich, 33 Coachlight Circle for a 4- Lot Re-subdivision with a date of notice of October 4, 2017. **Unanimous.**

**Public Hearing:**

G. Ploski recused himself from the meeting.

*7:20 p.m. Industrial Storage LLC, ETAL, 99 Union City Road – Special Permit Application for a 40,000 sq ft Industrial Building and Accompanying Site Improvements Cont'd.* Several copies of minutes and Resolutions of Approval from the PZC & IWC were given to the Commission at both the 8/16/17 & 9/6/17 meetings: minutes 5/7/08, 7/28/08, Special Permit Resolution dated 10/4/08, minutes 1/21/09, 1/23/09, 2/4/09, Site Plan Resolution of Approval: 5/22/09, minutes 2/1/12; 7/5/17. *Roland Desrosiers* Land Planner and Surveyor representing John Gallagher of Industrial Storage LLC, ETAL

appeared before the Commission and responded to comments pertaining to the position statement that was submitted at the last meeting by G & G Trust and Greg Ploski making claims in opposition to this project. *R. Desrosiers* stated that this proposal is in compliance with the Zoning Regulations, subject to P&Z interpretations and approval with conditions. The Site Plan is in compliance with Sections 12.2; 12.2.1 through 12.2.5; special attention paid to Sections 12.2.3 and 12.2.4. There will be no increase in traffic for this zone; P&Z had designated this zone as Industrial for this property taking into consideration the neighborhood when the Commission zoned it Industrial; the 100 ft buffer protects the residential zone on the east and the west is already industrially developed. The proposed use is an allowable use. *R. Desrosiers* made note of the Zoning Regulations Section 11 Site Plan requirement with reference in particular to Sections 11.5, 11.6 and 11.6.2 Traffic Access; Sections 11.3.10 and 11.5.22 were not applicable. *R. Desrosiers* stated that he feels the proposed building is situated at the best location possible, it is approximately 55 ft lower than the adjacent residential zone which is located to the east. There will be no visual impact to those neighbors and the noise level will be minimal due to the difference in elevation. *R. Desrosiers* stated that he feels that by the Commission reviewing the proposed Site Plan, it is evidence enough to be in compliance with the Prospect P&Z Regulations. *R. Desrosiers* continued that Section 4 of the regulations requires applying for a zoning permit issued by the Land Use Inspector which will be applied for after receiving approval for the Special Permit. *R. Desrosiers* commented on Attorney Caine's position statement advising that the driveway is 830 ft long; *R. Desrosiers* stated that the driveway is 650 ft that runs from the street line to the site area not to the building. *R. Desrosiers* continued that if the driveway is measured from the street in a straight line to the building, the driveway would be 780 ft; the regulations state 750 ft (Section 6.11.1.4). *R. Desrosiers* stated that in planning, J. Gallagher felt there should be more room between the building and the property line; if the Commission feels that the driveway cannot be longer than 750 ft, then the building could be moved forward by 30 ft or a revision to the building could be made. *J. Crumb* questioned if the Fire Marshal had been contacted and if city water would be brought in for water sprinklers for the building. *R. Desrosiers* stated that the Fire Marshal would be contacted once an application was applied for and if required, the building would have a sprinkler system. Chairman Graveline stated that for the size of the building, a sprinkler system would be necessary. *R. Desrosiers* stated that a complete set of plans were submitted, including erosion control measures, which the opposition stated were not in compliance; due to erosion control measures in place, they are in compliance. *R. Desrosiers* asked for questions of a technical nature. No further comments were made. *Attorney Tom Calkins*, 35 Field Street, Waterbury, representing the applicant came forward. *Attorney Calkins* stated that he was here to address the objections made by G & G Trust and Greg Ploski made at the last meeting. *Attorney Calkins* stated that one of the objections was that the lot had changed and had made a point saying that it is not the same lot that was previously approved by this Commission; this Commission did approve a previous Site Plan, Special Permit as well as an Industrial Subdivision. *Attorney Calkins* stated that he felt it was a complete misreading of the zoning regulations by the opposition referencing a subdivision, Site Plan and/or Special Permit; not from the historical point, but from current, there would need to be some type of approval which included a site development plan. *Attorney Calkins* read into the record a portion of Section 4.11.2.2 item #2, of the zoning regulations advising that this Commission would need to give its approval before a permit for the excavation; it would be of no sense to look back 10 years, as the permit is approved for all one process. *Attorney Calkins* addressed a vacant lot and stated that this lot has temporary structures that are set for demolition; when it is time for this project to be developed and when there is going to be excavation; it will be a vacant lot. *Attorney Calkins* continued that as far as this project meeting Article 4 Section 4.11 Earth Excavation, Deposition and Regrading Activities, in terms of the quantity of material that could be moved, that if the Commission saw fit to approve, this would be the one step that has prior approval for a special permit that would allow the applicant to move to the next step. *Attorney Calkins* continued with the question of safety and site line. *Attorney Calkins* advised that he felt that the objection was trying to say in this case, safety is a single CTDOT regulation and remarked that the CTDOT's regulation is 750 ft of site line and if you do not meet that regulation then it is not safe, whereas Prospect's zoning regulation states 150 ft of site line. *Attorney Calkins* commented that the CTDOT does not rely just on this one regulation but has an abundance of tools that are available to determine what is safety including speed limits and signs, ETC. *Attorney Calkins* asked the Commission to let the CTDOT set the requirements and then the applicant would need to meet the requirements placed on them. *Attorney Calkins* advised that this Commission had previously approved a 5 Lot industrial subdivision and now the application is for a single use, single lot. *Attorney Calkins* referenced the position paper and Greg Ploski stating that he is not the property, his wife is. *Attorney Calkins* commented on Attorney Caine representing G & G Trust and G. Ploski, whom had previously filed a suit against the applicant taking adverse position of a 30'x180' piece of property. *Attorney Calkins* stated that G. Ploski should not be participating as he is not an owner of record on this property. *Attorney Calkins* continued by noting minimal impact and buffers, with provisions that could be made to driveway regarding 30 ft. *Chairman Graveline* thanked *Attorney Calkins* and asked for other comments. *Attorney Caine* explained the adverse claim of property. *Attorney Caine* stated that under Connecticut law, after 15 years one could own the property; continuing that G. Ploski has occupied the strip of 30'x180' for more than 20 years as an individual; Mrs. Ploski does not own the property at 103 Union City Road but G & G Trust does and G. Ploski is fully within his rights to pursue an adverse position and that is why he is listed as someone who is in objection to this permit, to have all parties on board. *Attorney Caine* continued that Industrial Storage LLC had referenced M & J Services as being part owner of 99 Union City Road, but M & J Services had not signed the application; and it raises a question if this application was properly presented before the board, due to all applicants having not signed the application. *Attorney Caine* also commented on timelines for the Public Hearings referencing the 65 days for extensions and stated that per CGS 8-7d, the public hearing began on 6/7/17 and a 35 day

extension was requested as of 7/5/17 and another extension was requested as of 8/2/17 for a 30 days, without specific dates referenced. *Attorney Caine* commented that it was his belief that the Commission was over their jurisdiction by 5 or 6 days to act upon the public hearing and stated that he was requesting that the applicant re-file for a special permit application. *Attorney Caine* asked for a ruling and advised that new documentation had been submitted and he felt that the abutting neighbors and his clients should be shown all new documentation and maps. *Chairman Graveline* commented on the public hearing timeline. There was a 10 minute recess to obtain the information from the Connecticut Land Use Law for Municipal Land Use Agencies, Boards and Commissions dated 3/25/17 manual for section CGS 8-7d and review. *Chairman Graveline* advised that the State Statute allows 100 days from beginning of a public hearing; 35 days to hold the public hearing, plus two extensions of 35 and 30 days for a total of 65 days of extensions for an overall total of 100 days. *Attorney Caine* continued with his interpretation of CGS 8-7d and extensions. *K. Kemp* questioned if the applicant had to reapply, would they need to begin at step one. *Attorney Caine* stated no that there should be a stipulation that the applicant did not have to begin at step one; but he and his clients would like time to look at all new documentation and present their argument. *Attorney Caine* discussed the 40,000 sq ft building, 830 ft of driveway and being in violation of the regulation of 750 ft. *Attorney Caine* questioned the water line to the building. *J. Crumb* commented on a special permit and having the ability to provide conditions. *Chairman Graveline* questioned closing the public hearing as to *Attorney Caine's* interpretation of CGS 8-7d. *D. Santoro* questioned why the Commission was continuing to act upon the public hearing if *Attorney Caine* was correct and the Commission was over the time frame. *Chairman Graveline* asked *Attorney Calkins* to continue. *Attorney Calkins* advised that there were 2 letters, asking for a 65 day extension; the first extension for 35 days was to be completed as of August 9<sup>th</sup> and according to *Attorney Caine's* interpretation, the second extension from August 2<sup>nd</sup> for 30 day extension, there was a loss of 7 days from August 2<sup>nd</sup> to August 9<sup>th</sup>; what happened with these 7 days. *Attorney Calkins* stated that he believed that the Commission had a few more days to act upon the public hearing. *Attorney Caine* commented that he felt the applicant should have requested a special meeting in the meantime, before August 2<sup>nd</sup>. *Chairman Graveline* recommended that he would like to continue the public hearing for this meeting and to ask the Town's Attorney, Jen Yoxall, for her interpretation of CGS 8-7d. *J. Crumb* questioned what if the Commission did not get an answer by the next meeting. *Chairman Graveline* advised that the Commission had to close this meeting tonight and wait for *Attorney Yoxall's* direction. *Chairman Graveline* advised that the Commission has 65 days to make a decision. *Attorney Caine* continued on site lines and safety issues and commented that the CTDOT purposes site lines for safety. *Attorney Caine* discussed 150 ft site lines which are in the Prospect Zoning regulations and Rte 68, which is a State highway that comes under the jurisdiction of CTDOT. *Attorney Caine* advised of the decision made by this Commission 5 years ago, referencing PZC minutes of 2/1/12 stating that the special permit was denied due to site lines. *Attorney Caine* commented on the site plan that G. Cotter had previously proposed for 99 Union City Road and also referenced the information of Tony Cretella, an accident reconstruction analyst, commenting on site lines and elevations and gave the Commission a copy of the PZC minutes of 7/5/17. *Attorney Caine* stressed safety and site lines and the project not being in full compliance of the regulations. *Attorney Caine* commented that a traffic study was never provided. *Attorney Caine* commented on a 'grandfathered' clause of the regulations stating that removal of no more than 2,000 cu yds of material may be removed off site under Section 4.11.2.2; *Attorney Caine* acknowledged that this regulation was in effect after there was prior approval for the previous project; the 'grandfathered aspect' of this property is not the same piece of property and continued with the previous approval for the subdivision plan that was approved in 2009 showed the access way was over part of 103 Union City Road; the current access way is not the same as the previous approved project. *Attorney Caine* also continued that with this project there is more than 2,000 cu yds, but upwards of 100,000 cu yds of material which is in violation of the zoning regulations. *Attorney Caine* commented on G & G Trust being an abutting property owner as well as to a property across the street, and those projects being approved by the Zoning Commission many years past, as to the current property. *Attorney Caine* stated that in closing there are serious safety issues with this proposal, advised that the PZC has jurisdiction over safety issues, if the Commission does not dismiss and go forward with what they have, he hoped they would take into consideration the fact that the applicant was not in compliance with the zoning regulations and to consider the safety issues. *Attorney Caine* thanked the PZC for their time. *Chairman Graveline* asked the public for comments. *R. Desrosiers* commented on the minutes of 2012 and questioned what the minutes were about and *J. Crumb* stated that it was about a Town road. *R. Desrosiers* asked what the Commission has done in the past with a public hearing; being that this is not the first special permit that they have reviewed; at the time, he was advised by the Land Use Official, that time was expiring and requested a 35 day and a 30 day extension. *D. Santoro* stated that they will ask the Town's Attorney for her interpretation of CGS 8-7d. *R. Desrosiers* advised that they submitted the letters of extensions per the advice of the Land Use Official. *Chairman Graveline* recommended closing the public hearing based on the information that they had received. **Motion** made by A. Havican, seconded by K. Kemp to close the public hearing of *Storage LLC, ETAL, 99 Union City Road – Special Permit Application for a 40,000 sq ft Industrial Building and Accompanying Site Improvements*. **Unanimous**. *Chairman Graveline* thanked everyone for being patient and cordial. *G. Ploski* returned to the Commission.

### **Old Business Cont'd:**

70 Salem Road - Chairman Graveline advised that he had spoken with the Town's Attorney, Jen Yoxall on September 6, 2017 and she recommended withholding action until IWC is completed their actions.

**Land Use Inspector's Report:**

From the Land Use Office:

Toll Bros - Units Built: units built to date - 274; total to be built 366.

Toll Bros. - Regency at Prospect Re: Lilac and Sycamore: Toll Bros, Kellee McLean, Site Manager, the residents of Lilac and Sycamore, the HOA and landscape management met on 8/29/17. Toll Bros. will be bringing a landscape architect from BL Companies on 9/7/17 to meet with the homeowners and the HOA to discuss plantings and irrigation for this area. Once the plantings are in place, the responsibility will be on either the homeowners or the HOA to take care of this area.

The following permits were reviewed by the Commission and approved:

Membrino, Joseph/Byrnes, Anne: 36 Waterbury Rd; 21' ABG Pool w/wood pool deck 12'9"x8'6"x54";

Garcia, Thomas & Jessica, 44 Colonial Dr; Wood Shed; 20'x16'x14;

Newsome, Deborah & Thomas, 149 A Summit Rd; Pool deck w steps & self closing gate 8'x10';

Bedard, Darren/Tanguay Pools Inc; 181 Cook Rd; Inground Pool; 36'x18';

Oliveira, Joao; 35 Maple Dr; Wood/Vinyl Storage Shed/Bldg; 10'x12'x9';

Barbagiovanni, Frank & Stephanie; 231 Matthew St; Storage Shed, 16'x12'x10';

Bernegger, Joshua N.; 13 Maria Hotchkiss Rd; Wood Pool Deck; 40'x28'x1-4';

Barrere, Chris; 95 Clark Hill Rd; Rebuild Wood Tool Shed off of Existing Bern;

Shkempi, Neritan; 40 Smokerise Cir; Construct Detached Garage 28'.5"x28'x24'

Zoning Compliance for Toll Bros – Regency at Prospect Units 3, 4, 5 White Oak

Chairman Graveline stated that only two entities could sign the permits: the ZEO or the Commission.

**Motion** by A. Havican, seconded by J. Crumb to approve the signing of the permits for the month of August 2017.

**Unanimous.**

On behalf of Attorney Holley, the Land Use Clerk, Rosalyn Moffo, gave the Commission two site plans (one from 1979 and one from 1993) of 51-53 Roaring Brook Rd for a lot line revision: The family members would like to incorporate 53 Roaring Brook Rd back into 51 Roaring Brook Road.

**Motion** made by A. Havican, seconded by D. Santoro to approve the Lot Line Revision of 51 – 53 Roaring Brook Rd, agreeing with the interpretation of Attorney J. Holley; joining 53 Roaring Brook Rd at .93 acres to be incorporated back to the original property of 51 Roaring Brook Rd at 13.74 acres for a total of 14.67 acres. **Unanimous.**

**Motion** made by K. Kemp seconded by J. Crumb to place the Land Use Offices' verbal report on file. **Unanimous.**

**Public Participation:** None

**Adjournment:** **Motion** made by A. Havican, seconded by D. Santoro to adjourn the meeting. **Unanimous.**  
The meeting adjourned @ 9:12 p.m.

*E. Gil Graveline*

E. Gil Graveline

Chairman