

Planning & Zoning Commission
Unapproved Minutes
August 16, 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

Alternates Present: G. Ploski and R. Blanc

Absent: G. Graveline

Others Present: Tammy DeLoia, Land Use Inspector

Vice Chairman A. Havican seated Rich Blanc for G. Graveline.

Approval of Minutes:

Motion made by G. Ploski, seconded by A. Havican to approve the minutes of 8/2/17. **Unanimous.**

Correspondence:

1. Connecticut Federation of Planning and Zoning Agencies Summer 2017

2. Letter to the Planning & Zoning Commission dated 8/16/17, from the Assistant Public Works Director Gene McCarthy, recommending the Commission's approval on the proposed bond estimate for Site Improvements for Phase 6 "Regency at Prospect" in the amount of \$900,793 as presented. G. McCarthy had stated that after reviewing the construction plans for Phase 6 and discussions with the Toll Bros' Land Development Department, he had found the bond estimate to be sufficient to ensure completion in conformity with the approved site plan and required stipulations of the Regulations.

After discussion, **Motion** by J. Crumb, seconded by D. Santoro to approve, the Assistant Public Works Director's recommendations of the proposed bond estimate, for Site Improvements for Phase 6 "Regency at Prospect" in the amount of \$900,793 as presented. **Unanimous.**

Motion made by K. Kemp, seconded by R. Blanc to place correspondence on file. **Unanimous.**

Public Participation:

A general discussion took place on the "rock outcropping" of Phase 4 of "Regency at Prospect". At the previous meeting of the PZC, residents of this area had appeared before the Commission to express their dismay that due to lack of proper soil, the residents could not get plantings to grow; in the past, Toll Bros had "hydro-seeded" but to no avail. Now the residents have contacted Toll Bros, but have not received a response to their concerns. J. Crumb advised that he had driven into the vicinity and noticed the area had only natural vegetation and he would recommend trees to be planted in the area. After discussion, it was the consensus of the Commission to recommend having Toll Bros and/or the Homeowners Association come before the Commission to discuss this matter.

Vice Chairman A. Havican asked for further comments. No other comments were made.

New Business: None

Old Business:

Jane Valetkevitch, 33 Coachlight Circle-Application for a 5-Lot Re-subdivision Cont'd. The Commission was advised that Mike Lambert, P.E. of Harry Cole & Son did not appear before the PZC this evening due to having no response from Andy Bevilacqua, P.E. of DTC, after contacting him twice to discuss the drainage issue. M. Lambert had stated that he was hopeful to have this information by the next meeting. The meeting was continued until September 6, 2017.

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. Roland Desrosiers L.S.* representing John Gallagher of Industrial Storage LLC, ETAL advised that he had no new revisions for the Commission and turned the floor over to Attorney Thomas Calkins, 35 Field St., Waterbury, CT. Attorney Calkins presented before the Commission stating that he is representing a member of Industrial Storage LLC, John Gallagher and addressing opposition to the application, in particular site lines. Attorney Calkins referenced that the application is primarily for a single use storage, large equipment and machinery facility; the property sits in an area with an access driveway that has a finite number of feet going in both directions; with CTDOT's standards of 700+ ft for a tractor trailer in each direction for a total of 1400+ ft; which you would need in total to comply with the site line requirement. The application does not meet the 1400+ ft requirement, this is a finite number, if one moves to the left, there is more footage on the right and if one moves to the right, there is more footage on the left. Attorney Calkins continued that this piece of property has a substantial amount of acreage and has been a very busy part of the PZC meetings for the last 9 years since 2008. Attorney Calkins introduced into the record several documents of history from previous PZC and IWC meetings and gave handouts to the Commission: PZC minutes 5/7/08; IWC minutes 7/28/08;

Special Permit Resolution of Approval 10/3/08; PZC minutes 1/21/09; Resolution of Approval 1/23/09; PZC minutes 2/4/09; Site Plan Resolution of Approval 5/22/09. Attorney Calkins referenced Section 12.2.1 of the Zoning Regulations, traffic regarding site distance, advising that the CTDOT will impose its own set of conditions as to what is an adequate site distance. Regarding tractor-trailers, Attorney Calkins also stated that there are other pieces of property in that area that service tractor trailers without substantial difficulty: 103 Union City Road and another piece of property across the street; both of these properties would appear to be evidence of an adequate site line distance and were approved by the previous Planning & Zoning Commissions. Attorney Calkins also referenced photos that were submitted by R. Desrosiers at the June 21, 2017 meeting. Attorney Calkins advised that if one was to look past 103 Union City Road, at the access from 99 Union City Road and looking to the left, past 103 Union City Road, you will see a dip in the road, where the line of site ends; the closer you are to the dip, the less time there is to react. Attorney Calkins continued that in the past, this Commission has addressed (3) previous applications that started in 2008; a subdivision, a special permit and a site plan; each time the Commission had approved the application and recognized that the site line was an issue and made it a condition of the approval, in particular for the subdivision. Attorney Calkins stated that whatever the CTDOT requires then J. Gallagher would need to comply with, otherwise J. Gallagher would not be able to develop the property on the basis of this site plan. Attorney Calkins stated that Mr. Ploski had been a supporter of the previous applications including with regards to the subdivision application, the road was going to be called Ploski Dr and that there are references repeatedly, including as to Wetlands as an agent, that Mr. Ploski supported these applications. Attorney Calkins questioned that if in the past, the Commission approved a special permit application, a subdivision application and a site plan application and there is a special permit application before them today, and its use is less intrusive than the previous subdivision application, is there any change in circumstances that would justify this Commission finding something different than what they found before; the regulations are essentially the same, the topography and geography are essentially the same and there does not appear to be any change in circumstances. For these reasons, Attorney Calkins asked the Commission to approve this application, recognizing that the site line is an issue and makes it subject to CTDOT's review; CTDOT's setting the conditions and J. Gallagher satisfying these conditions. Vice Chairman Havican asked the Commission for comments. J. Crumb questioned if any of the previous applications had been approved by the State. Attorney Calkins stated that the subdivision application became moot due to the applicants, M&J, Mrs. Ploski and J. Gallagher not getting the monies together for the bond; without the bond the mylar could not be recorded. After that point, the partners fought and it became a lawsuit. In the meantime Attorney Calkins met with the DOT in Thomaston and Mr. Ploski, who was a participant; they were addressing the issues that the State had, when the lawsuit came about, stopping them from moving forward. J. Crumb asked if the State approved, to which Attorney Calkins stated that they never got to that point. J. Crumb questioned the responsibility of the PZC if they approved this special permit and there was a fatality. Attorney Calkins stated that it would be the State's responsibility as are speed limits and warning signs. J. Crumb also questioned if prior access from 103 Union City Rd for J. Gallagher's use, was approved by the State. Attorney Calkins advised that at that time, the use was temporary and he did not think that State approval was necessary. Attorney Calkins continued that once the Commission approved this permit, it would be the State that would set the conditions. Vice Chairman Havican asked for further comments. Attorney Leonard (Lenny) Caine, representing Linda & Greg Ploski of G & G Trust, appeared and presented the Commission with two map profiles from George Cotter, PE of Cheshire, CT: (1) Truck Turning Movement for 99 & 103 Union City Road dated 9/16/15 and (2) Intersection for Sightline Profiles for 99 & 103 Union City Road, dated 9/16/15; two quick claim deeds: (1) From Industrial Storage LLC to Linda Marie Ploski, Trustee for G & G Trust of Prospect for a 1.47 acre parcel; (2) From M & J Service LLC to Linda Marie Ploski, Trustee for G & G Trust of Prospect for a 1.47 acre parcel, both dated 1/3/17; a letter from the Law Offices of Jeffrey J. Holley, LLC, RE: Opinion Letter Pending Special Permit Application dated 5/17/17 Industrial Storage, LLC and M&J Service, LLC; a copy of the Zoning Regulations of Section 6.11 Access Drives; and a copy of the Position Statement by G & G Trust and Gregory Ploski in Opposition to the Granting of a Special Permit. Attorney Caine stated that their main opposition is that the special permit does not meet the Zoning Regulations requirements and stated that, in particular, that the application did not meet the site line as Tony Cretella, an accident reconstruction specialist had stated at the previous meeting of 7/5/17. Attorney Caine continued that the special permit also did not meet the following Zoning Regulations: Article 12- Special Permits: Sect 12.1, Sect 12.2.1, Sect 12.2.2 and Sect 12.10.5; Article 6 - Sect 6.11.1.4, Driveway length; Article 4 – Earth Excavation - Sect 4.11.2.2: under 4.11.2.2; stating that the lot is not vacant as there is an existing building on it and the applicant proposed the new application in this fashion to continue with the excavation as a vacant lot. Attorney Caine also commented that the application before the Commission is now different, and not applicable as previously approved for the subdivision, special permit or site plan as land had been exchanged as shown in the Quick Claim deeds with conveyance from both Industrial Storage LLC and M&J Services LLC to Linda Marie Ploski, Trustee for G & G Trust of Prospect for 1.47 acres. Attorney Caine again stated that the application did not meet the site line distance of 500 ft for a car, 630 ft for a single axle truck (UPS) and 765 ft for a tractor trailer all at 45 mph; and noted that the site distances are for safety purposes and that it is up to the PZC to ensure the safety of the citizens. Attorney Caine also commented on the driveway access under Article 6 – Sect 6.11.1.4 as the current driveway shown by the applicant is 830 ft from Rte 68 and is in excess of the Zoning Regulations at 750 ft in length. Attorney Caine stated that due to the lack of details, non-compliance with the Zoning Regulations and lack of CTDOT site lines, he urged the PZC to deny this application. Attorney Caine also commented on Sect 6.11.1.5 pertaining to the grade of the driveway as the current grade was not in compliance but higher. Vice Chairman A. Havican asked for further comments. Attorney Calkins stated that the applicant did not state that this was the same application as previous, but it

did have the same issues- tractor trailers entering and exiting the property. It is CTDOT's job to make sure that there is adequate safety coming in and out of the property. The Town of Prospect's regulations do not have a standard, but the State of CT does. Attorney Calkins continued that it is the same issue, historically, years of tractor trailers coming in and out and practical experience and it is up to the CTDOT to decide. Roland Desrosiers asked to review maps that Attorney Caine submitted this evening and stated that he did not feel some of it was correct. R. Desrosiers stated that the A2 survey previously submitted by him accurately depicted the new boundaries of that property, showing the 1.47 acres given to 103 Waterbury and the current applicant's land to be 29 acres from 31.36. R. Desrosiers stated that the map from G. Cotter showing this property is not for this site plan; the proposed driveway is now 65 ft away from the property line which was less on the previous site plan; also the current site line map showed that there is no longer a dip in RTE 68 going eastward. R. Desrosiers also stated that the profile map by G. Cotter showed tractor trailers crossing over the center line, which would not happen if the tractor trailer operator turns sooner. Dave Santoro questioned if the pictured radius turn is the same for a tractor trailer and R. Desrosiers stated that it was. Attorney Caine commented that the standards set by CTDOT for safety are not met; G. Cotter had created the map to show the optimum place to get to the best site lines which show that they are less than the requirements CTDOT. R. Desrosiers commented that the proposed grade for the driveway is at 3% not more and commented that the temporary buildings will be destroyed to continue excavation within the property. A. Havican asked for further comments. Matthew Pfaefflin, 95 Union City Rd stated that he is not in favor of granting an approval for this special permit application due to safety issues, after reviewing the pictures of the large sized vehicles and site line issues. No further comments were made. Vice Chairman A. Havican continued the public hearing of *Industrial Storage LLC, ETAL, 99 Union City Road – Special Permit Application for a 40,000 sq ft Industrial Building and Accompanying Site Improvements until September 6, 2017 at 7:10 p.m.*

G. Ploski returned to the Commission.

Land Use Inspector's Report: None

Public Participation: None

Adjournment:

Motion made by R. Blanc, seconded by K. Kemp to adjourn the meeting. **Unanimous.** The meeting adjourned 8:28 p.m.

Al Havican

Al Havican
Vice Chairman