

PLANNING & ZONING COMMISSION
TOLLAND, CONNECTICUT
REGULAR MEETING MINUTES OF APRIL 26, 2010

MEMBERS PRESENT: Michael Cardin, Chair
Sue Errickson, Secretary
Dave Barrow, Regular
Jack Scavone, Regular
John Hughes, Alternate
Benjamin Stanford, Alternate

MEMBERS ABSENT: Marilee Beebe-Kostrun, Vice Chair

OTHERS PRESENT: Linda Farmer, Director of Planning & Community Development
Applicants and their representatives

1. **Call to Order.** Michael Cardin, Chair called the meeting to order at 7:30p.m. in Council Chambers. He seated Ben Stanford for Marilee Beebe-Kostrun.

2. **Public Comment:** None.

3. **Public Hearing(s)**

3.1 **P&Z App. #801 – Carolyn A. Taft** – Special Permit/Site Plan request to operate a Dog Grooming facility at 576 Old Post Road. Commission to take action on April 26, 2010 Public Hearing item. Ms. Errickson read the legal notice into the record as well as the April 12, 2010 letter from Carolyn Taft. Mr. Cardin noted that Ms. Taft also enclosed a sketch of the site plan with her letter; it was dated as submitted April 12, 2010. Ms. Errickson read an April 19, 2010 memo from Steve Lowrey into the record.

Ms. Farmer provided some background information on the regulations. She said the regulations allowed veterinarians to operate a business on as small as two acres as a special permit. She said in November, 2009, the Commission made a change to the regulation recognizing that like veterinarians, there may be other businesses with pet uses such as pet grooming where the work would be done mostly inside and could therefore probably operate on as little as two acres also as a special permit. This was a way to also encourage home occupations.

Carolyn Taft of 576 Old Post Road said she feels her business would give back to the community. She said she only plans on grooming five dogs a day, and she would not expect it to impact the neighbors because she would plan on having only one dog, possibly two at the most, at her business at any one time to allow for individualized attention. Dog owners would drop their pets off and pick them up. There would be no overnight stays.

Ms. Errickson asked Ms. Taft if she planned to have a sign advertising her business out front. Ms. Taft said she did, but she did not know what size sign she was allowed to have

and that she would follow the regulations. Ms. Farmer said home occupations are allowed signs of 3 square feet and special permits 9 square feet. Ms. Taft said she would expect to put it on the island between the two driveways on her property. Mr. Cardin asked if Ms. Taft sees a big demand for this service. Ms. Taft said she does. She said there is one other groomer in town that takes small dogs and is very busy, and Ms. Taft said she would probably expect to groom the larger dogs. The Public Hearing was opened to public comment. Raymond Ludwig of 552 Old Post Road said his property borders the Carolyn Taft's property on the north and east side and he has no objections whatsoever to Ms. Taft's plans.

Errickson/Scavone motion to close the Public Hearing on P&Z App. #801. Motion was unanimously approved.

4. Action on Public Hearing(s)

- 4.1 **P&Z App. #801 – Carolyn A. Taft** – Special Permit/Site Plan request to operate a Dog Grooming facility at 576 Old Post Road. Commission to take action on April 26, 2010 Public Hearing item. Scavone/Stanford motion to approve P&Z App. #801 to operate a dog grooming facility at 576 Old Post Road, subject to Steve Lowrey's guidelines in his memo of April 19, 2010. Motion was unanimously approved.

5. Other Agenda Items

- 5.1 **P&Z App. #797 – Wm. F., Jr. & Russell S. Welz** – Four (4) lot Subdivision request to create three (3) new building lots. Location: southwest corner of Hunter/Bakos Roads intersection. Mr. Cardin recused himself for this application and Ms. Errickson led the meeting. She seated Mr. Hughes for Mr. Cardin. Ms. Errickson read three items into the record—a memo dated April 8, 2010 from Linda Farmer to Michael Cardin, a March 25, 2010 memo from the Tolland Inland Wetlands Commission to Michael Cardin with the Wetland/Watercourse permit approved March 18, 2010 on the reverse side, and an April 8, 2010 memo from Johanna Schmidt, Sanitarian to Michael Cardin.

Mark Peterson of Gardner and Peterson representing the applicants reviewed the four lot subdivision request. These would be located at the corner of Hunter and Bakos Roads. He delineated the wetlands system which bisects the property. He also delineated the regulated area. Mr. Peterson reviewed Lot 1, which is about 4.87 acres and has frontage on Bakos Road. The Lot would require a waiver because while it meets the buildable square requirement in the rear of the lot, they would prefer to build the home elsewhere on the property to avoid a wetlands crossing and creating other disturbances. The proposed lot has about 310 feet of frontage.

Ms. Farmer explained that the 19,000 sq. ft buildable area requirement calls for a 100 foot square to be inside that area. The reason this was established was to provide a large enough contiguous area and to avoid situations where there would be excessive ZBA variance and wetland permit requests for accessory structures.

Mr. Peterson described Lot 2 as 2.16 acres. He said the driveway is proposed to come in close to the high point of the road near the intersection. Lot 3 is further south on Hunter Road and received Health Department approval for a code compliant septic.

Lot 4 is over seven acres in size. Several decades back, when the zoning regulations were different, the lot was left with 151 feet of frontage on the south end. Since then, the zoning has changed to have a 200' frontage requirement. This is the reason for the second waiver request on this application. The proposed driveway would come in, cross a narrow wetland, and parallel the southern property line up to the house. Mr. Peterson said he feels this lot meets the intent of the regulations. The proposal calls for a flatter driveway which would reduce potential risks for erosion.

Ms. Errickson asked if the driveway for Lot 4 would be paved or gravel. She expressed concern about runoff to the adjacent homeowner's property if the driveway was gravel. Mr. Peterson said the driveway would be up to the homeowner, but that the grades would push runoff toward the wetlands.

Ms. Farmer said if this application is approved, she would like it noted on the plan that there is a 5' setback for driveways from adjacent lines. This proposal is just 5'. In the interest of any possible impact on adjacent subdivisions, Ms. Farmer asked if there was any reason why the house on Lot 4 was sited so close to the existing house in back. Mr. Peterson said they found a septic area that was suitable there and locating the house in this area left room for a driveway. He said they had run into some shallow ledge and grades to deal with elsewhere on the property.

Mr. Scavone asked if there might be any opportunity to move the driveway for Lot 4 a little more north, perhaps 20' feet or bring it in at a slightly different angle. He expressed concern that the headlights of cars entering the driveway at Lot 4 would be intrusive, shining right into the neighbor's house. Ms. Farmer said she would expect the first 200' of the driveway to be fairly fixed. Mr. Peterson said they delineated the driveway in this way to minimize the impact on wetlands. Ms. Farmer said an option would be to plant a buffer. Ms. Errickson asked if they could ask for some type of natural evergreen buffer. Ms. Farmer said they could when asking for a waiver. Mr. Scavone suggested putting in a berm with plantings. Ms. Farmer said a berm could impede the natural flow of water. She explained the purpose of requiring properties to be accessed by their frontage. She said before that requirement, they were seeing applications for a lot of contrived lots and they found they were not controlling orderly development. She said when the 150' was set aside decades ago, the Wetlands Commission wrote a fairly compelling reason for allowing a driveway in a less sensitive area.

Mr. Scavone asked if they could bring the driveway in to straight to Lot 4. Mr. Peterson said there would be a problem with sight lines doing that. Ms. Farmer said there might not be room to plant a buffer on Lot 4. Mr. Peterson said they could possibly do a mutual agreement between the landowners. Mr. Scavone said he still has a problem with the driveway. He said the second turn in the driveway is a direct hit on someone's house. He said changing the angle just 15 degrees might help and while he understands the situation with the wetlands, he feels a little bit of encroachment would be better. Mr. Peterson said they might be locked in with the turning radii and it might be up to the Wetlands agent if they could soften the curve. Ms. Farmer said they could qualify a vote for a waiver by having a requirement where the engineer must work with the wetlands agent to address the problem. Ms. Errickson agreed that they probably would not have room to plant a buffer, but they could soften the curve.

Ms. Farmer said one thing they did not discuss is the fact that the property abuts other developed land, but it is not contiguous to other open space. They have a wetlands area and pond that the Inland Wetlands commission will protect, and the Conservation Commission has recommended requiring a fee in lieu of open space that would be equal to 10 percent of the appraised value of the land. They would need to put an encumbrance on the land records so that when each lot is sold, the developer would pay a certain amount of money which would go into the fee in lieu fund.

Scavone/Stanford motion to approve a waiver of Section 170-5 "Buildable Area" on Lot 1, because the proposed house location being paced closer to the road would eliminate the need for a long driveway. Motion was unanimously approved.

Scavone/Stanford motion to approve a waiver of Section 170-37 I. that requires the driveway access to the dwelling to be at the lot frontage to limit contrived lots, with the stipulation that the engineer work with the wetlands agent in the field to increase the radius of the second curve in the driveway, and to note this in the plans. Motion was unanimously approved.

Barrow/Hughes motion to approve P&Z App. #797, subject to the three memos read into the record and a fee in lieu of open space. The reason for taking a fee in lieu of open space is because there is no contiguous open space to join with and because this subdivision abuts other subdivisions. Motion was unanimously approved.

A five minute recess was taken, after which Mr. Cardin returned to the meeting and reseated himself for John Hughes.

5.2 P&Z App. #793 – S. D. Williams – Site Plan revision request to reduce buffer under Section 170-39.D.13 of the Zoning Regulations to Kollar Wildlife Management Area to 75+/- . Location: 55 North River Road. Development name: North River Glen (Multi-family). Mr. Cardin confirmed that the regulations require a 100' buffer. Ms. Farmer said that the PZC approved a special permit site plan a few months ago, and since then Steve Williams has been fine tuning the site plan. The 100' buffer regulation was intended to buffer multi-family developments from other residential areas, but in this case the development abuts the Kollar Wildlife Management Area. She said we have a provision in the regulations, Section 170-39D13, that allows the Commission to reduce the setback to no less than 25'. Mr. Cardin noted that they approved the site plan on December 14, 2009. Mr. Williams noted that he originally came before the Commission informally just before it changed. He said this new plan is better with less fill involved. Mark Peterson of Gardner and Peterson said the new plan also saves some existing stone walls. They both distributed site plans to PZC members.

After some review, the PZC and Mr. Williams found that the request should be to reduce the buffer to +/- 65' to accommodate a deck shown on the plans. The plans they referred to are dated March 24, 2010.

Scavone/Stanford motion to modify the site plan under Section 170-39D13 to reduce the buffer to 65' in the northerly corner of the North River Glen development where it abuts the Kollar Wildlife Management Area. Motion was unanimously approved.

5.3 Belvedere Ridge – 601 Old Post Road. Property owners request for discussion with Commission. Attorney Mike Romano of Rocky Hill, representing Tomlin, LLC was present along with Tom Gurtell, the property owner. Attorney Romano distributed copies of a map showing the existing site plan of Belvedere Ridge. He described it as a 66 unit project off of Old Post Road. Attorney Romano took over for Attorney James Ripper who died in November. He said he understood Attorney Ripper had proposed some zoning changes, but he does not have a lot of history of the development available to him. The original proposal was for 168 units, which was reduced to 66 units. To date, only two units have sold. There are four more spec models under construction which have not sold.

Attorney Romano said there is a long bottleneck entrance to the property and the development overlooks the Star Hill Athletic Center. He said he understood that Attorney Ripper had asked for a zone change under the Fair Housing Act and explained that Congress had enacted an exception to the Act to allow restrictions in housing for residents aged 55 and over.

Attorney Romano showed in comparison the Crystal Springs Development in town, which is also a 66 unit age restricted development. Their sales figures show they have a significantly larger portion of their units sold. He said the Belvedere Ridge development has not done well at all with sales and an unsuccessful development is not good for anyone, not the developer or the town. Attorney Romano went on to say that towns usually look at 55+ developments as not placing as great a demand on town infrastructure, particularly the school systems. He said he would like to propose removing the age restriction and allowing eight to nine three bedroom units, but still keeping most as two-bedroom units. He realizes this would require a zone change, but his main reason for coming before the Commission tonight is to get an idea about their concerns.

Ms. Farmer said that per their regulations, they can't have more than fifty percent of the units single family detached unless it is age restricted. She said if they modified the special permit to lift the age restriction, then fifty percent of the units would have to be attached. They would need to be duplexes at a minimum.

Mr. Cardin asked Attorney Romano if he has talked yet with the WPCA. Mr. Cardin said he understood that a stipulation with the WPCA when this development was first proposed was that it had to be limited to residents aged 55 or older. Attorney Romano said he has not talked with anyone else yet, that the PZC was his starting point. Ms. Farmer explained that at the time of the original approval, the Town Council was also the WPCA. She said if he wants to lift the age restriction, the special permit would need to be modified and an approval from the WPCA, which is now a separate body, would have to be received.

Mr. Cardin said Attorney Romano would also need to consider the covenant with the two existing homeowners. Attorney Romano agreed that they would need to approach them and get their agreement to lifting the age restriction. Mr. Cardin said his concern is that this request does not fit the criteria of the recently updated Plan of Conservation and Development. He said this does not fit the criteria of a place where they could have mixed use development.

Mr. Cardin asked who was the architect for this project. Mr. Gurtell said it was Blue Moon Design out of Tariffville. He said they do residential, commercial and retail

developments and a lot of upscale single family housing. Mr. Gurtell said he originally offered twelve different styles of units and that they got input from real estate agents. Since then they have lowered the prices of the units, and changed the styles so that they now have 14 to 15 styles available. He said they will build the units to the buyers' requirements to accommodate their needs. Mr. Gurtell further said that the Crystal Springs development is priced higher than Belvedere Ridge, but started earlier than they did so that might account for some of the difference in sales. However, since the soccer dome at Star Hill Athletic Center was installed, it has turned people off. He said they are trying to work a deal with Mike Smida to offer new homeowners discounted rates on memberships and they are trying to talk up the plusses of living nearby to recreational facilities. However, it has been difficult to sell people on living next to a big white dome that is 75' high. Even with tall trees planted as a buffer, the dome cannot be hidden.

Attorney Romano said the Star Hill Athletic Center is a youth centered facility and so may be more desirable to families with younger children. Ms. Errickson said some of her concerns were that many of the units had the master bedroom on the second floor which might not be a good selling point with the 55+ crowd. She said the school bus stop situation would also be a big concern because Old Post Road in that area is dangerous. She said a bus cannot pull in there and she would expect on cold or rainy days that they would see a queue of minivans with parents waiting to pick up their children and drive them home. She said this issue was also a concern with neighbors on Old Post Road. She added that neighbors also expressed concerns about increased traffic if families with more drivers were allowed to reside there. Additionally, with the short driveways, she said there was an expectation that many people would park on the road.

Mr. Stanford asked if there as any potential for another access point on Old Post Road. Ms. Farmer said there was not. There is just the emergency egress.

Mr. Gurtell said that regarding the first floor bedroom issues, he said of the 14 to 15 units, about 5 units would have first floor master bedrooms. He said they also offer colonials and raised ranches. He said that people who are 55 are not old. The people living here would be, for the most part, active adults, not elderly, so they want to be able to offer them options. This range of styles was based on the recommendations of their real estate agents.

Mr. Hughes said this development is fairly dense but not in one of their identified village nodes. He said, however, that it is close to where they might want to do a village center and asked if there was potential to add mixed use development or to connect to the Star Hill Athletic Center. Ms. Farmer said they are in the process of looking at their zoning regulations to see if they comply with the POCD. She said this development is not consistent with that and is pretty built out to try to retrofit at this point.

Ms. Farmer said if they want to consider lifting the age restriction, they need to discuss the process and communicate with the WPCA. Mr. Cardin said that would be the first step, with the next step talking to the bus company to get their input about picking up children. He also said Attorney Romano will need to talk with neighbors about their concerns, and address traffic issues. There was earlier concern that the traffic study may need to be updated.

Ms. Errickson asked Mr. Gurtell if he expected the prices of the units to stay about the same if the age restriction was lifted. She said there is a need for housing in this price range. Mr. Gurtell said he would expect so as they would plan to keep a lot of two bedrooms and that more attached units would likely be less expensive.

- 5.4 **P&Z App. #441 – Tolland Planning & Zoning Commission** – Burgundy Hills Quarry – Review conditions attached to February 25, 1991 Special Permit. Commission to set Public Hearing. Errickson/Scavone motion to set the Public Hearing for P&Z App. #441 for May 10, 2010. Ms. Farmer reviewed what she would provide for this meeting. She would provide information on the post-blast testing, which will be conducted Wednesday. The town would also be notifying property owners within 500’ of the quarry. She will supply history on the chain of events, the 1989 court case, and the sixteen conditions attached to the special permit with staff recommendations. She will provide DEP and geohydrologist reports. She also said that Bud Smallwood, the quarry owner, will be making application at the same time for an extension of his permit.

Mr. Stanford asked Ms. Farmer if she has any information that supports the 16 conditions. Ms. Farmer said there is a great deal of information and she will set it aside for anyone who would like to review it. This includes traffic information, the Clarence Welti reports, and other items.

A vote was taken on the motion and it was unanimously approved.

6. **Approval of Minutes** – Approve minutes of April 12, 2010 Regular Meeting. Errickson/Barrow motion to approve the April 12, 2010 minutes. Ms. Errickson, Mr. Barrow, and Mr. Cardin voted to approve. Mr. Scavone and Mr. Stanford abstained. Motion passed.
7. **Activities and Updates** – Ms. Farmer said the WPCA is holding a workshop on May 18 at 7:00pm to review the Phase II Facilities Plan and updates and is inviting the Town Council and PZC. She said there have been two key changes to the original Phase II Plan. They have reduced the number of areas for constructed solutions from five neighborhoods to two. They are also recommending instituting a phased-in sewer pump-out ordinance for the entire town.
8. **Town Staff Comments**

- 8.1 Page Property, 431 Gehring Road – Update – Ms. Farmer distributed photographs of 431Gehring Road taken by Mr. Lowrey on April 26, 2010. She said the Pages paid the fine of \$150 that was imposed last month. Ms. Farmer said she also talked with Frank Gagliardo at the Department of Environmental Protection. She said he does not feel he has the resources to go out to the Page site and that their priority at the DEP is to focus on people operating illegal transfer stations.

Ms. Farmer said the Eastern Highlands Health District has reviewed Stu Danforth’s information he provided at the last meeting. That information was part of the Public Health code, but the property with the excess material is vacant. The bar is whether the materials are attracting a nuisance to public health. She said Rob Miller will need to make a determination of the health hazard on site. Ms. Farmer said she also has a memo dated today from Steve Lowrey, adding that she and Steve will be meeting with the Pages on Thursday night to go over the situation again. This is at the Pages request.

Mr. Cardin asked how often they can levy the \$150 fine. Ms. Farmer said she is uncertain, but the attorney verbally advised against levying a daily fine. She said she can get his recommendation on how often they can fine. She said they don't use the fine system that often. Mr. Cardin asked when was the last time the town levied a fine. Ms. Farmer said it was about nine months ago, but she doesn't believe they have ever fined a violator for the same violation more than once.

Mr. Barrow asked what they are specifically looking to accomplish. He said looking at the pictures, he feels a lot of the debris, although not all, is gone. Mr. Hughes said it appears they have cleaned out most of the business related material, so this could just be personal junk. Mr. Barrow said you find this situation in many places, and do they need to require that all the junk is gone. Mr. Scavone said he would expect two things—that they need to get the Pages to remove as much junk as possible and they also need to make sure that this material is not related to the Pages operating a business at a residence, which would be illegal.

Ms. Farmer said she feels they may need some legal input here. She said they need to know what in their regulations they can go to court about and say the Pages are violating. There is a big gray area. Mr. Stanford asked if they have anything in writing that says what specific items needed to be removed. Ms. Farmer said the citation specifically refers to a violation of the home occupation regulation and outside storage of business related material. Mr. Stanford said they could possibly try to get the license plates of trailers on the property to see if they are registered to a business or if they are personal. Mr. Barrow said this might require going on the property. Mr. Cardin said the February 22 meeting he attended with Steve Lowrey with the Pages involved a gentlemen's agreement to clean up the property. Mr. Cardin asked for a copy of the letter that was hand delivered two months ago.

9. **Announcements – Upcoming Meetings** – Ms. Farmer said that 174 Merrow Road has been cited for an extra sale sign, for the wintry mix sign, and for not obtaining a special permit for retail goods and services. She said they have until May 1 to comply. She also said she got a legal opinion that they cannot grant a second sign due to the lack of frontage on two town roads. She will send that on to Rob Arute.

Ms. Farmer provided a handout overview of her meeting and discussion with Dave Barrow about signage. She also provided a summary put together by their intern, Melissa, on mixed use technology zones.

Ms. Farmer noted that there will be two public hearings on May 10 and the WPCA workshop on May 18.

10. **Reading of Correspondence** – None.

11. Communications and Petitions from Commission Members

11.1 Sue Errickson – CRCOG Report – Ms. Errickson said CRCOG did a presentation on their on-line building permit program in which Tolland and eight other communities will be part of. She said the \$20K program is excellent and provides residents with the ability to gather all the information they need on-line from the comfort of their home.

She said the software connects with multiple departments, and Tolland should have this program in a few weeks. Ms. Farmer said a press release on this has already been done.

Ms. Errickson also provided information on a bicycle education program.

12. Public Participation – Barbara Danforth of Mile Hill Road said she would like it noted that it is now 9:50p.m. and she has been here at the meeting since 7:30p.m. She said she has been working with the DEP and understands it will take some time to resolve the problem at the Page property because they are dealing with multiple agencies. She said she plans to approach the town manager about instituting a blight ordinance, and will be getting a group of people together that feel a community should have the legal right to take care of problem areas in town. She said there is a four acre dump behind the Page house which must be moved.

Sharon Zerac of 345 Gehring Road also spoke about the Page property. She said she has lived in town since 1973 and drives by the Page property twice a day. She said in the past 25 vehicles on the property had to be removed but the Pages did not do it willingly. She said she has observed more broken-down, unregistered vehicle accumulation on the back of the property, which can be a danger to children. Mr. Cardin said that the vehicle issue would need to be taken up with the Town Council.

Mr. Cardin explained that they have been dealing with this issue since December. He said there is a lot of information in the record and several pictures that have been taken in chronological order, which she is welcome to review. The Pages were fined and they paid the fine. They are trying to deal with the issue.

Ms. Zerac said she is also concerned that the condition of the Page property has negatively impacted neighboring property values, including her own. She said she is very aware that Mr. Page is operating a business out of the residence and it needs to be checked into by the town. Stu Danforth of Mile Hill Road said the Commission knows Mr. Page is operating an unregistered business illegally out of the residence. He reiterated that the Commission need to check into this.

13. Executive Session – To discuss pending litigation. Errickson/Scavone motion to go into Executive Session at 10:00p.m. Motion was unanimously approved. Stanford/Barrow motion to come out of Executive Session at 10:09p.m. Motion unanimously approved.

14. Adjournment – Errickson/Scavone motion to adjourn the meeting and pay the clerk at 10:09p.m. Motion unanimously approved.

Respectfully submitted,

Annie Gentile
Clerk