

**WATERTOWN PLANNING AND ZONING COMMISSION
CONTINUATION OF
Public Hearing**

**FEBRUARY 6, 2008
Watertown High School Technology Center
324 French Street, Watertown, CT 06795
7:00 P.M.**

A public hearing was held by the Watertown Planning and Zoning Commission on Wednesday, February 6, 2008 in the Watertown High School Auditorium, 324 French Street, Watertown, CT at 7:00 P.M.

1. CALL MEETING TO ORDER

Chairman David E. Minnich called the public hearing to order at 7:00 P.M.

2. ROLL CALL

Mr. Minnich asks Mrs. Allen to read the roll

Present: D. Minnich, J. Franson, C. Mancini,
D. George, G. Martin, K. Demirs, R. Rondeau

Absent: M. Masayda, R. Russ

Ray sits in for Mike and Ken sits in for Ron

Others Present: Ms. Ruth Mulcahy, Administrator of Land Use
And Mr. Charles Berger, Town Engineer.

3. HEARING OF APPLICATIONS

**a. Continuation of public hearing an application for a 15 lot subdivision
known as French hill Estates located on French Street, Watertown,
CT**

Applicant: Joseph Masi and Margaret Raymond
33 Pleasantview Street
Oakville, CT 06779

Joseph Masi, 33 Pleasantview Street, Oakville

Mr. Masi states he needed to address the following issue.
He has been receiving disturbing phone calls of which one of the Councilman is
going to “cook the books” on this subdivision. He claims he had also heard that

Gary had gone out and told people that he was against this subdivision and states that he hopes that this is not the case.

Mr. Masi states that he wants to find out that if any of them discussed an issue or heard information outside the venue of the public hearing. He asks them individually and after a few “no” answers a conversation with Mr. Martin. He tells Mr. Masi that he has and he plans on having a discussion on this exact issue. Mr. Masi states that he should recuse himself and Mr. Martin states he has rethought the entire issue of recusal on this issue and he claims he is annoyed at himself for having recused himself because he feels that there is no reason to have recused himself. After discussion, he states he will no longer recuse himself.

Mr. Masi continues stating that he had recused himself on the Planning and Zoning Commission for a lot less than Mr. Martin is involved in. Mr. Martin responds asking him what he is involved in? Mr. Masi responds that it is the perception and the perception makes applicants feel that they will not receive a fair hearing and states that is all he needs to tell him. He then continues that the law states “perception” and the law does not state that there has to be a conflict, but a perception of a conflict. He goes on to further state that there is a perception of a conflict and he would like Mr. Martin to recuse himself. Mr. Martin asks what matter that would be, asks Mr. Masi to share it.

Mr. Masi asks where he wants him to start. With the fact that you, Jim and Rich Fusco got yourselves appointed to the same group to push retail in that area on Route 262? Mr. Martin asks him where he got this information. Mr. Masi states by your findings. Mr. Martin replies that he is a member of a study group that had good conversation on everything and he had never taken a position on anything and states that Mr. Masi is taking the position for him on Route 262, and he never stated to anyone his position on 262. Mr. Masi repeats that it is perception and his point is that he wants Mr. Martin to recuse himself. Mr. Masi states it appears to be a conflict. Mr. Martin states that he will think about it. Mr. Masi continues that if there has been no conversations outside the hearings, he could accept it, but he has to raise the point because he is hearing it and it makes him upset and nervous about the fact the books are cooked. He further states that what he is getting from the board is that it is not true which was confirmed by a Mr. Mancini.

He goes back to the original question asking if anyone has spoken about this application outside the public hearing forum. Mr. Minnich replies that he has only spoken to Ms. Mulcahy. Mr. Masi states he must raise these issues for the record.

Mr. Masayda arrives at 7:10 p.m.

Mr. Minnich suggests as the chairman to Glen and Jim to recuse themselves and Glenn states that he does not feel that he should. Mr. Minnich continues that this

has been before the board for sometime and that what has come before them at Inland/Wetlands doesn't count here. It's only what is before Planning and Zoning because the decision is made as a member of this board. Further he states that it is their right to vote and participate in conversation but suggest they not participate.

Both members plan on staying.

Mr. Martin explains that he has thought about this hard and long and what he ends up doing on an issue as this that anybody can come before this commission and state that there is a conflict and he states that there is no conflict and unfortunately they feel there is one and he doesn't know the reason for it. He continues that he went to the site walk, he looked at the proposal, read everything, listened to everything and boggles his mind and feels insulted that they would make that accusation. The point is that anybody can make this statement and any member could take a stand what they believe against their project and make the same argument on what basis? Because they feel I would not be open and accepting of both sides of the arguments? He states that he would be.

With that said, because they are so concerned about him, he will recuse himself, but he tells them to never come before him and ask that again because he will never do it again.

For the record, Mr. Martin has recused himself. Mr. Rondeau has been asked to sit in for him.

Don Knolte, Stuart Somers

He states he realizes it is the third public hearing and will try to keep it brief.

He gives a history including that the subdivision was approved in September of 2007. At that time, the plan was reviewed by a 3rd party (Northwest Conservation District) Shawn Haden who submitted several reports, recommendations and drafted the inland/wetland permit 589 for approval. This plan entailed the elimination of lot from the original 16. It involves mitigation activities and structures that were offered and subsequently required under permit and a detailed phasing plan that provides for the orderly sequence of construction.

During this public hearing process, the commission advised us early on that he does not have the authority to reduce the 400 foot minimum intersection spacing distance requirement with subdivision regulation 5.3.7 which relates to Riverside Street shown on the original plan.

The initial design concept was intended to both maximize the intersection site distance to the right and minimize the associated earthwork. At that time, we move the commission to vary this regulation as we had observed a 200 foot separating distance that was allowed in the 1999 Bona Vista Subdivision and he

submits for the record, a map #2897 Bona Vista subdivision map prepared by Erich Strachan. He gives it to Ms. Mulcahy.

He continues that a possible future amendment of regulation 5.3.7 is out of our control and has concerns about the original driveway serving the private lots. They endeavored to design a major change into the subdivision. That would be shifting the road entrance to satisfy the 400 foot requirement. He continues that they have submitted a conceptual road and driveway layout that satisfies section 5.3.7 and creates a common driveway off of the new road to serve lots 1, 2 and 4. This was a formal modification made to the application at the last meeting. They pledge to provide the revised engineering detail to staff supporting the design. Mr. Berger has provided comments based on his review. He submits 2 extra copies into the record for the Commission's use and information.

With regard to the commission comments at the last meeting, he reviews changes to open space #2, Charles Spath indicated that the property line would be shifted taking land from lot 10 and adding to open space #2 which has been done. There is now 2.05 acres of town owned open space proposed as a component of this requirement, 1.85 of conservation easement area in two different locations. This represents roughly 8.8% of the entire 14.08 acre property excluding the detention basin, there is 1.6 acres of town open space, or 11.3% of the property and the wetland percentage in the open space 8%. On a related topic, they contacted Frank Jodaitis and he clarified that there is no longer a need to provide the proposed water and sewer easements still shown on this plan as the new open space obviates that need. He submits the memo.

The applicant has considered a fee in lieu of open space option. They believe that since the project far exceeds the regulation requirements for the set aside, this is not an option that is warranted or an alternative that they wish to pursue at this time.

Another issue raised at the last meeting was the addition of some vegetative screening to the proposed 6 foot high chain link fence at the top of the rock cut at the entrance area. They have added mountain laurels to be 36" high to be spaced 6 feet on center in front of that fence. With the elimination of the separate driveway entrances from French Street, he feels they will be able to maintain a 20-30 foot buffer of interesting, natural vegetation from the property line into the areas to be developed. He has reviewed and sent the plans to the fire chief and he has been informed by Ms. Mulcahy that she has received a positive response from the changes. He states that a turnaround should be a condition of approval on lot 4. Where the three driveways diverge, it has been widened out. He continues that no fire tank or fire hydrant will be necessary.

Mr. Minnich asks Mr. Berger to read his recommendations on this project.

Mr. Berger summarizes that minor revisions to the plan were made and have been received and reviewed and they had addressed the majority of the comments he made on the plans. Two significant items were provided for consideration and discussion this evening. First deals with sidewalks which are currently proposed on the western side of the road on French Street to approximately $\frac{3}{4}$ of the way around the cul de sac. On the western side of the roadway, there are several significant rock cut areas and if the commission is only going to be looking at sidewalks within the proposed subdivision, an alternative would be to move them to the eastern side of the road away from the rock cuts and any potential water issues that may arise from those cuts.

The other alternative if they do not want to pursue sidewalks, it is a 30 foot wide road with 15 lots on it, and if they want to look at other areas, perhaps on French St and connecting to the section on Ice House Road wouldn't be a bad idea.

Item number 2 deals with the sightline of the intersection of the new road and French Street and by moving the new road further to the West, they have impacted the sightline negatively and it no longer meets the subdivision or CT DOT highway Design Manual specifications. It did short between 50 and 75 feet of sightline to the west.

Mr. Knolte states he sees no benefit installing sidewalks in the subdivision giving the limited number of lots on this permanent dead end street with wide pavement areas adequate for pedestrians and a limited number of vehicles. However, constructing a driveway on the easterly side of the proposed road would unnecessarily complicate the construction of the driveways to the 5 lots located on the low side of the road, it pushes the high point out farther and although possible, we believe it is possible grass 5-7 feet in width can be provided and still satisfying the geotechnical engineers criteria for the slopes of a 1-6 maximum angle for rock cuts. Although drafted on the plan at a 1:2 ratio so that the contours can be picked out, if you go with the more typical rock cut, you gain 5-7 feet of area and we could have a grass shoulder for drainage needs. We request that if required a final decision on which side of the street the sidewalk is installed be deferred until after the rock cut, slope stabilization and drainage improvements are completed and then be left to the discretion of the Director of Public Works based on the outcome and his comfort level with the end result of the grading and stabilization. The applicant does not believe that the construction of the sidewalk along the north side of French Street is warranted as there are already sidewalks located across the street and there is no other east west trending sidewalks on that side of the street.

With regards to the sightline question, we knew this would result at the time we submitted the traffic engineer's study which said 475 feet would be preferable and we had 500 initially and he said it would be less and less than the 85th percentile criteria fit the road was to be shifted.

In order to comply with 5.3.7, we did find it necessary to move that road. At this point, we can provide a 402 foot sight distance to the right. This exceeds the minimum distance to the right for local, commercial industrial roads by 117 feet or so. The 455 foot criteria comes out of an appendix e in your regulations and it is our impression that this criteria is perhaps more of a guideline than a rule as the commission previously acted to approve the Bona Vista subdivision intersection sight distance to the right at 315 feet as measured by our survey crews and found that suitable and safe distance and within his discretion to approve although it is less than the 455 feet required by Appendix E and this property I mentioned lies less than 600 feet from the Masi property on the same street.

Lastly, it has come to our attention that the Board of Education is in the process of considering modifications to the driveway at the high school and that a traffic light or other traffic calming measures may be installed to accommodate the entrance traffic. Their sight distances don't appear to be more than 200 feet. If these measures are installed at this location, it is likely that the travel speeds may be reduced in front of the Masi property and hopefully closer to 25 MPH posted speed and not the 45 MPH thoroughfare design criteria which you will read in that table. He states he had suggested something like that earlier in the hearing as that driveway or that access road to the school is only about 600 feet from the proposed Brook Hollow Road intersection.

Mr. Minnich states that the commission is aware of the issue involved in making for the sidewalk and making a condition dependent upon actions after and subsequent to our decision. If that was to be your proposal, he asks would his attorney and he provide whatever legal mechanism is acceptable to the town's attorney. It is not an issue to which you will litigate if the board is to decide that issue. He states he does have some rights to this and we will know what the courts have ruled. He asks for them to come back at some point to let them know.

Joe Masi, 33 Pleasantview

Mr. Masi states that they do not have an objection, but they do have a preference. And the preference is that it be kept on the west side because it would serve more houses on the west side and if it is on the east side, it will create a hump going down into the driveways because you are going to have a 1.1/4% grade going up before you drop down for the snow shelf and he doesn't want to put that burden on those lots. He states a swale with rock and underground drainage to go to the pipes, storm drains to take care of any water that is coming off the rock cut can be put on that side. This will keep it from going onto the sidewalk and the road itself.

Mr. Masi asks Mr. Berger if he sees any problem with the intersection being where it is from a safety standpoint and Mr. Berger replies that it doesn't meet sight line and he would prefer to compromise on the distance between

intersections than on sightlines. He does not recommend compromising on sightlines.

Mr. Masi tells him he has a problem with that because he has spent a lot of money after the fact that he had it where it was to bring a totally new plan to try to satisfy the comments of the board and now it looks like we have to go back to the way it was. He continues that they addressed comments from the board that they didn't want driveways onto French Street and then comments to meet the 400 feet and that was addressed which put us in a catch-22. Either the 400 feet or the sight line. Again, a lot of money has been spent based on the board and engineering comments and now it goes back to the way it was.

Mr. Rondeau questions the potential swale for drainage. He asks how it would work in the winter because he sees on Route 84 that ice builds up on the rock on the side of the wall and on the ground in front of the area. He asks if something similar may happen.

Mr. Knolte replies that the drain would be stone to the surface with a large stone with high porosity and would also put in open inlets to take the surface water should the stone become piled with snow and ice and be graded to the drains as it is in the street. He continues that with the tests he's done, there were no indications of a water table and there are homes being constructed above this limited contributing area that would be intercepting water and sending it into this bio rain garden area and down the driveway and into the catch basin systems and roof leader galleries to put the water back into the ground so the runoff isn't accelerated. They have good soil conditions documented so it is not a large concern at this point.

Mr. Minnich asks if there are any more comments from the commission and hearing none asks for any comments from the public.

Al Pizzolorusso, Gilbert Lane

He states he is attending tonight because of the issue of the school driveway. He states because of where he lives he gets to observe what goes on on French Street. He thinks the subdivision looks nice and asks the commission to consider what goes on on French Street, the sightlines are important and the area from Riverside to Gilbert is a nightmare. He feels the sightlines are very important and the developer should do all that he can to maintain it so it is workable because it is too dangerous otherwise. He feels the sidewalks would be a good idea as well. He sees kids walking up the street and don't use the sides with the sidewalks. He asks the commission to look at the safety issues.

Joe Masi, Jr. Rocky Hill, CT

He speaks on behalf of his father and states that the posted speed limit is 25 MPH and states he doesn't believe that it is their responsibility to enforce the speed limit. The discussion of the road being widened at French Street and a light being put in is a great idea and would help. The options of taking away the driveways and talking about the sightline being too small, you leave the applicant no options to use the land.

Donna Masi, 33 Pleasantview St.

She has one comment similar to her sons. With regards to French Street, we have it categorized as a thoroughfare and the posted speed limit is 25 MPH. What she is getting from the speakers is if the cars adhere to the speed limit, would the sightline be an issue? Mr. Berger states that it might comply with the requirements of the State Highway Design Manual. The town's subdivision regulations would still classify French Street as a thoroughfare and you still have to address the issues presented in the appendix of the subdivision because French Street, in the old plan of development is not a local road and not a commercial or industrial area and it would be classified as a thoroughfare.

Ms. Masi state that when French street was rebuilt, there are water and sewer connections every 75 feet and the state and town did that knowing that the undeveloped properties would be developed. She would like that taken into consideration and think it unreasonable to think that these 14 acres would stay undeveloped.

Mr. Knolte commented that on appendix e, the travel speed for commercial industrial roads and other roads designed for 35 miles per hour have sight distances of up to 285 and that is why he mentioned the difference of 117 feet more is what is being provided than that minimum distance.

Joe Masi, 33 Pleasantview Street

Mr. Masi states that Mr. Berger indicated that if one item needed to be sacrificed it would be the 400 feet so that the sight line could be preserved. Mr. Berger states that that is his recommendation. Mr. Masi asks if he should take a poll of the commission as to whether or not in the most drastic fashion that would be acceptable. Mr. Minnich asks before he does that he reminds him the commission did get polled on this issue and said that it is our reading of the regulations that we don't have an option about the 400 feet but did suggest that would be amenable to consider amending the regulations very soon and that is where we were. He states that the council advises that they don't have the authority to waive the 400 feet requirement. Mr. Masi points out that there are new members on the board and he wasn't sure if they were agreement. Mr. Minnich states that he is welcome to poll.

When asked what the question was, Mr. Minnich replied that in section 3.5.7 of the subdivision regulations requires that you may have no new intersection closer than 400 feet to any other intersection. Riverside Street was within the 400 feet of their original proposal. The applicant then revised it and moved it beyond 400 feet of Riverside and on that issue, it is compliance. However, in review of it with staff and with the newly presented plans, there is a sight line issue.

Mr. Blaise asks for clarification and Mr. Minnich states reiterates the 400 feet issue and continues explaining that the sight line is based on speed, not just the posted speed, but the traveled speed and that is the reason why a traffic engineer and a report which has been provided and he states that is about 45 MPH and not 25 MPH. Based on that, there is not much that Chuck Berger has to do. He looks at an approved table in the regulations and based on that speed, this is the distance he must meet. This brings us back to the original issue; the Commission doesn't have the legal authority to waive that portion of the subdivision regulations in that the commission hasn't given themselves that authority. The last time this question came up, after polling the members, it was agreed that we would be willing to take a look and perhaps, no promise, modify it and Mr. Minnich states that it would be done quickly and not be delayed. That is where we are now.

Mr. Dupliese asks what the sight line is right now and Mr. Masi replies that it is 402. The regulations require 455 in accordance with the subdivision standards and 475 feet based on the Connecticut Highway Design Manual for 45 MPH.

Mr. Minnich states that in accordance with the state law, we have the authority in our subdivision regulations to provide a waiver to anything we wish to but in so doing we must specifically require on each issue a waiver, not a general waiver. The waiver is by state law is by majority. In both cases, we haven't given ourselves that authority and would be willing to do that.

Mr. Masi states that strange things happen when you move plans around. The new plans are more satisfying to him from a standpoint of being able to shield the driveways and plantings so that all you see is the road going in which hooks to the right and goes down and up and over. It gives it a lot of privacy. He does not want to disturb it now, and would like to see if they would go along with what happened at Bona Vista which is some latitude in the 450 versus the 402 feet.

Mr. Demirs asks Mr. Masi that it was said that the distance from Riverside to the subdivision that Eric Strachan did was only 315 feet or was it heard wrong. Mr. Knolte states that the intersection distance meets the 400 feet and it is the sightline to the right that is only 315 but a thoroughfare criteria is 455 feet.

Mr. Minnich reminds the commission members that what may or may not have been done on a previous project does not establish precedent on another project. The readings are in the regulations and Mr. Masi asks if boards in the past have considered this and from a planning standpoint, we want to come out with the

most attractive subdivision that we can. One that will do justice to the neighbors from the standpoint of minimal impact visually although there will be some impact and one that meets safety requirements to the best of our ability. He feels that 45 MPH should be allowed on the road if that is what is designed for.

Mr. Minnich asks to help rephrase that in the terms of a question as follows: Would you be willing to amend the regulations to either allow it to occur or to allow a waiver to that regulation? Mr. Masi states that he wants it so there could be a possible waiver each way either on the sightline or the 400 feet.

Mr. Blaise states that he thinks the applicant is trying to make everybody happen but there are different opinions and he states he would be open to an amendment. Mr. Dupliese states he would be open to an amendment to the 400 foot but not on the sightline because it is more of a safety issue especially on this site and states he drives this road every day and sometimes traffic is backed up to where the road is going to be. Mr. Minnich asks the members who were in agreement at the last meeting if they are still in agreement to this issue and they all agreed.

Mr. Minnich states that it is again unanimous that the commission would be willing to consider writing the regulations so that it would provide a waiver to that or some other means. Mr. Masi states either the site line or distance.

Mr. Masayda adds that he wasn't at the last meeting and because sightline is safety related and he is more inclined to have him meet the sightline and waive the 400 feet between intersections because it is more to do with queuing and conflicts between intersections but it is more desirable not having the driveways coming to French Street. Mr. Masi states that they may have to have them come out to French Street.

Mr. Russ adds that he would rather not compromise the sight line and would rather compromise the 400 foot first

MOTION: To Close Public Hearing
Motion Made By: Mr. Blaise
Seconded By: Mr. Mancini

Motion passes unanimously

Mr. Russ arrived at 7:15 p.m.

Michael Masayda, Secretary
Planning and Zoning Commission