

Revised 5-20-08

Town of Watertown
Planning and Zoning Commission
Regular Meeting
April 2, 2008

Time: 7:30PM (9:05PM)
Date: Wednesday, April 2, 2008
Place: Watertown High School **Technology Center**
324 French Street
Watertown, CT

1. Call meeting to order
2. Roll call

Members Present: D. Minnich, R. Russ, G. Martin, C. Mancini,
G. Dupliese, J. Blais, D. George, Ken Demirs, R. Rondeau,
M. Masayda

Others Present: Ruth Mulcahy, Land Use Administrator
Chuck Berger, Town Engineer

3. Public Participation

Minnich: Next item on the public agenda. Yes Joe.

Joe Masi -33 Pleasantview Street Oakville

I rise tonight to bring some clarification on information to this commission relative to changes to the amendments to subdivision vs. waivers for the regulations. Now I served on the Planning and Zoning commission that approved the current subdivision regulations that was approved on 1-22-96 and made effective 2-15-09. Jim Blais was on it and Joe Polletta was on it. So I'm sure they have a pretty good idea on that particular conveyance was put in the regulations regarding waivers. You have the ability under section 3410 to waive any portion of the code on case by case basis. Where you bury a zone for a particular person but the code does not change. It is the same thing here. This is backed up and enabled by chapter 126 section 8-26 of the Connecticut General Statutes. There has much discussion about the opinion by the Frank Pilicy your previous town attorney that supposed to have said you can't waive the code. Let me just

for a minute hand out ten copies of the letter. As a matter of fact a question was asked of Mr. Pilicy was not whether you could but what the number was for the vote. So obviously, the commission knew back then that you could waive it. Now it's obvious from the letter and the language in this section that you don't need a change of language and you don't need a public hearing and a waiver. There are two types of changes you can make in the regulations. The first is the amendment to the regulations which requires is a public hearing. The second is waiver that requires three quarters of the board or super majority. And this was put in the state status as an additional protection. So waivers were not granted willy nilly. Okay. As far as I'm concerned this has cost this board, administration and we a huge loss of time. The Planning and Zoning commission of 1993 left verbiage in 3410 in the subdivision as it was contained in section 2.410 amended 10-13-88 because we knew the regulations could not cover all of the situations conceivable there had to be a safety valve. To address issues that didn't just quite figure into the code as it was written but demanded address. Our consultants concurred. The town attorney at time concurred before our approvals. So it has been all gone over and approved. With respect to French Hill Estates we withdrew our subdivision application because it was obvious because the board was going to deny it based on erroneous information. Since the withdrawal I have personally become involved in the issue of waivers to get to the bottom of the matter. I tell you tonight Item #11 on the agenda relating to waivers on the four hundred feet is not necessary. You already have the power to waive. As such we will be re applying and request a waiver when we figure out what that waiver to the four hundred feet separation between the intersections as our plans make require. Just so that you know that I have that information. The regulations amendment effective October 13, 1988 says specifically on 2410 waiver of conditions and in essence the same as what is in 3410 of later revisions that were approved. And this approval the first running of the subdivision regulations which was passed adopted January 22, 1996 and made effective February 15th 1996 and it is actually the language in the 1998 proposal and has not been changed through all of the revisions in your subdivision code as of today. Okay and the latest code that you are operating from is this code in piece meal 3-4-10 is the exact same language. So we backed up by your code and four waivers which are backed up by state statute 18-26 which contained in chapter 126 of the Ct. general statutes and that its.

Minnich: Let me respond to that if I may. In the process of our writing regulations predecessors and including you writing regulations and this state legislature getting involved. There is another entity that gets involved. Which in the courts it is my understanding both from attending the attorney land use seminars?

Masi: I have been to all of those also.

Minnich: As well as a discussion with Franklin Pilicy our former town attorney and our land use attorney. As well as in his letter and is a court decision that states in subdivision regulations if you are to waive them. It requires a third quarters vote there is no issue there in our case it is six of our seven members but also that in the regulations what is waiver able. The court ruled in this case or cases that you can't take all the subdivisions regulations as we have stated in the 3.4 and site everything is waiver able.

Masi: Chapter 8-26 specifics for instance major roads and those sorts of things within the subdivision would require regulations and therefore require a public hearing. Okay, but it does not address things of this nature. As a matter of fact.

Minnich: I'm only making the comment to you that courts have intervened in this.

Masi: I have to see the cases on that so my attorney can check the cases.

Minnich: And if you wish to provide a legal opinion from your lawyer on this we will be happy to.

Masi: What I'm doing is going by Pilicy's opinion and his last statement it's my opinion that subdivisions sometimes called sub variances may be approved by only a three quarters vote from commission members. This means six affirmative votes be required. He did say case laws say you couldn't do this. He said that you could do it. And your question to him was not whether or not it was you could do. But your question to him was how many people it would take. So it appears as though the commission as a whole not this commission but the commission before knew that it was waiver able. And as a matter of fact, that's the reason all commissions through the years have waived the subdivision regulations on case by case basis for varying subdivisions. That could meet the criteria yet it begged for it.

Minnich: Well, I'm not going to debate with you. I am not a lawyer and know I know that you are not either. And will have lawyers tell us. But the issue is that we ask Attorney Pilicy in which responded to, was that we knew in the town of Thomaston that they had indicated they would need a two third vote to waive subdivisions.

Masi: No, it's three quarters.

Minnich: I understand that.

Masi: Right out of 126.

Minnich: I know but that was what the subdivision regulation said which we understood not to be correct. Obviously it's not correct. Obviously as novices we did not know that. We had a discussion amongst ourselves and decided as to what was the right number. We knew it was not the majority. We knew it was a super majority and because another town had indicated it was two thirds. We needed that clarification. So Attorney Pilicy's question or letter of February 6, 2006 was limited to the issue of how many votes it takes to waive a subdivision regulation. And three quarters between you and us there is no disagreement on that. The issue that we are in disagreement with is the issues what you waive in subdivisions is not a general waiver of what you want that you have to be specific when you write the regulation as to what you are waiving.

Masi: It doesn't call for that unless, a court case on that. I'll have my attorney check on that. The other thing that it was known that since these regulations have not changed you have buried the subdivision regulations all the way through from 1988 to recently. Okay it was done based on language in the subdivision regulations. It was done with many town attorneys looking at it. I fail to see why at this particular point in time. Again I will refer to my attorney to do some research relative to case law. And if we find that there isn't case law on it we will back with our subdivision plan. Whatever we need for the number of feet because we do not know the number of feet as yet and that's another reason it should not go to a fixed amount. We don't know what that amount is at this time. You couldn't put an amendment into the regulations based on a fixed amount when you don't know what the fixed amount is. I won't know that until we come up with the latest plan that we are coming in. We are going to check and if we are given a go by our attorney you will have our application as soon as possible.

Minnich: You are welcome to submit your application it still will require a three quarters vote from the commission. The commission has in the prior application that you eventually withdrew. The commission said it would be willing and is going to review that. It did not appear at those meetings that we as a commission had six votes to waive the subdivision. I fail to understand if you are going to re apply how that scenario is going to change at all.

Masi: If that scenario changes then we will meet you in court.

Minnich: If you want to do that. Then we will move on. I thought we were working together on this.

Masi: You are telling me the votes are not there.

Minnich: No, you said your interpretation of why this and this is your words, as to why you withdrew your application is that you did not feel there were six votes to continue or waive the application. Those are your words and having said that your now going to re apply you say. The same scenario is in place that we need to waive the application. So logic says if that's your interpretation of not having the votes to waive is in the prior application which is why you withdrew. Why would it be different now when you re apply again?

Masi: We are going the route.

Minnich: You are going to court. We will move on.

Masayda: Are we still going forward with the amendment with the subdivision regulations.

Minnich: We will talk about it. My own view is if Mr. Masi who we are doing this for and working our time to revise this. And that was the urgency to do it. I am not in any urgency to do it. If he is going to sue us as he just said on the record. But I am one member and that's how I feel at this point. I was willing and have been working and I have spent time on this. Tonight I had something prepared to go through with the draft and Roy Cavanaugh and the Public Works Department have put a memo together. As we all said last time reviewing, they did spend several hours they were looking at these issues. Now we are told they are going to sue us.

Mancini: What we can do is waiting for him to come back with a new application.

Masayda: Again, Roy letter to Ruth again those four hundred feet is preferable. We can go less than four hundred feet depending on the type of intersection roads. Such in this case a cull de sac with a minimal amount of house on it you are not going to need four hundred feet especially on a local road. So we don't have to contend on this issue for future applications. We should still proceed forward with this amendment to the regulations.

Blais: Do we have some information from the last meeting. One other town Bethlehem has no zoning that had the same four hundred feet.

Mulcahy: With a waiver. Yes the two and four hundred feet gave the sense of ability to waive that under specific conditions. And that what the language lists. Subdivision regulations say in the regulations shall specific the conditions and that one thing you could do is waive it under specific conditions.

Minnich: My feeling the time comes if I change my mind an hour from now. But I have spent a good two hours to this. I was willing to move this forward and was going to have this on the agenda for next week we have a special

meeting on the nineteenth for the three school projects and I was going to add this agenda. To me the urgency to do this was for the French Street Estates project that was reason we are moving quickly as we got. I have a lot on my plate and you can decide for yourself. But they are telling me as you just heard them say they are going to sue us then I am in no urgency. We have no requirements under the legislation to move anything.

Blais: I can understand Mr. Masi's frustration because it is over a year and half old. I think we should calm down try to look at this logically and move it along.

Minnich: I will tell you what if Mr. Masi tells us that he is not going to sue us then perhaps I will change my mind.

Masi: Mr. Masi is speaking at this point in time. Obviously if you do the right thing in terms of fulfilling what you say what you are going to do there will be no suit. If in fact if there is conflicts of interest and there is reported pre determinations you bet we are going to sue. So let's start out by saying that we think we our going to have a fair board. If that's the case then obviously we are willing to do whatever necessary to get this thing passed.

Minnich: I am not going to argue with you, but inject a brand new concept. The discussion that interjecting now is conflict of interest and pre dispositions that was never discussed earlier this evening. The discussion to which you were going to sue.

Masi: This is public participation and I am free to say anything I want Dave. Okay and if I introduce those particular issues as issues that came up in the past then obviously I am going to use my rights. What I am saying at this point in time is that if this issue of four hundred feet is addressed fairly there won't be a problem period.

Minnich: Okay is there any further public comment.

Donna Masi 33 Pleasantview Street Watertown

We felt from our research from what the commission been talking about putting in the regulations regarding the four hundred foot situation. Are a redundancy because already we have the ability to waive in the sub division regulations. If this commission and I believe you have said that will continue take a look at putting this in the specific subdivision issue. Then when I will continue on this train and continue on your agenda and talk about whatever you are going to do to continue push this along. We would certainly be willing to wait until this issue has been resolved. If it continues to go in a timely fashion and would appreciate that.

Minnich: Anything else? For public participation the last time anyone else? Okay I shall move on.

4. Communications and bills
 - a. Land Use Academy Training series, roles and responsibilities of Commissions, Map Reading for site plan review and legal procedures for land use decision making May 17, 2008
 - b. State of Connecticut DEP Letter dated March 13, 2008 Re: accepting applications from municipalities, non-profit land conservation organizations and water companies for the fourteenth round of the Open Space and Watershed Land Acquisition Grant Program
 - c. State of Connecticut DEP letter dated February 27, 2008 Re: Stream Channel Encroachment Permit NO: SCEL:20070124
 - d. Letter dated March 5, 2008 from Murtha Cullina, LLP Re: Petition NO:834 Watertown Renewable Power, LLC
 - e. State of Connecticut Dept of Environmental Protection letter dated February 14, 2008 Re: Ct. General Statutes Section 22-a6h Notice CRRA Application No: 200202510

Text of Motion: By unanimous consent place on file

5. Meeting Minutes
 - a. Public Hearing Special Meeting September 19, 2007 Text amendment to the Zoning Regulations to Article I, Section 5.2 Definitions and Article I Section 7.25 Wind Turbines
 - b. October 3, 2007 Watertown Credit Union site plan modification for removal of an existing building and additional parking located at Woodruff Avenue
 - c. Regular Meeting October 3, 2007
 - d. Public hearing special meeting October 17, 2007 an amendment to delete Section 83.65 titled Watertown Planning and Zoning Fire District Fees from the Watertown Zoning Regulations
 - e. Public hearing special meeting October 17, 2007 for Sandy Alves zone change from an I-80 to a BS-C
 - f. Public hearing special meeting October 17, 2007 for GT Holdings for a site plan approval.
 - g. Special meeting of October 25, 2007 for Baillie Company for site plan Approval
 - h. Special Meeting December 5, 2007
 - i. Public hearing December 5, 2007 Plan of Development
 - j. Public hearing December 5, 2007 Section 42A –Rte 262 PCD
 - k. Public Hearing December 5, 2007 300 Smith Pond Road, Watertown
 - l. Regular Meeting December 5, 2007

- m. Public Hearing January 2, 2008 an application for a 15 lot subdivision known as French Hill Estates located on French Street, Watertown, CT
- n. Public Hearing January 2, 2008 Cider Hill Subdivision located on Woodbury Road and Old Baird Road, Watertown, CT
- o. Regular Meeting January 2, 2008
- p. Continuation of Public Hearing January 16, 2008 Special Permit #237 for a wind turbine located at 60 Farm Circle, Watertown, CT
- q. Special Meeting January 16, 2008
- r. Public Hearing January 23, 2008 Special Permit #233
Watertown High School Site Plan modifications for an education use with additions and renovations
- s. Public Hearing January 23, 2008 Special Permit #234
Judson School, Watertown, CT Site Plan modifications for an education use with additions and renovations
- t. Public Hearing January 23, 2008 Special Permit #235
Judson School, Watertown, CT Site Plan modifications for an education use with additions and renovations
- u. Special Meeting January 23, 2008
- v. February 6, 2008 Continuation of Public Hearing an application for a 15 lot subdivision to be known as French Hill Estates
- w. February 6, 2008 Continuation of Public Hearing Special Permit #233
Watertown High School, Watertown, CT
- x. February 6, 2008 Continuation of Public Hearing Special Permit #234
Judson School, Watertown, CT
- y. February 6, 2008 Continuation of Public Hearing Special Permit #235
Polk School, Watertown, CT
- z. Regular Meeting February 6, 2008
- aa. February 20, 2008 Continuation of Public Hearing Special Permit #233
Watertown High School, Watertown, CT
- bb. February 20, 2008 Continuation of Public Hearing Special Permit #234
Judson School, Watertown, CT
- cc. February 20, 2008 Continuation of Public Hearing Special Permit #235
Polk School, Watertown, CT
- dd. Special Meeting February 20, 2008
- ee. Motion Sheet Public Hearing March 5, 2008 four lot subdivision of land to be known as Deluca Subdivision
- ff. Motion Sheet Regular Meeting March 5, 2008
- gg. Minutes Budget and Administrative Sub-committee Meeting March 13, 2008
- hh. Minutes New and Used Cars Regulations Sub-committee Meeting March 13, 2008
- ii. Minutes March 19, 2008 Parking Regulations Subcommittee Meeting
- jj. Minutes March 19, 2008 Wind Turbine Regulations Subcommittee Meeting
- kk. Special Meeting March 19, 2008

By unanimous consent:

Table 5a-5b

Approve 5-c

Table 5-d-5-g

Approve 5-h-5-o

Table 5-p-5-ee

Approve 5-ff-5-jj

Table 5-kk

5. Staff report

Minnich: Is there a motion to move items 6 to item 9e. If there a motion for that. Is there a second. Is there any further discussion? All those in favor. Please say I. Those opposed say no.

Text of Motion: Move staff report to 9-e

Motion made by: G. Dupliese

Seconded by: C. Mancini

Aye: 7 Nay: 0

7. Articles on agenda

a. Applicant:

Ken Demirs and Michael

D'Augustino

Re:

2 lot residential subdivision

At:

Davis Street/Evelyn Street

Oakville, CT

Zone:

R-12.5

Ken Demirs: I am going to recluse myself.

Minnich: Before you is a being a past draft motion that was prepared by Ruth Mulcahy. The purpose of the record I reviewed this with Ruth and no other members of the commission have seen this until now. Given our process let me quickly go through it. It's a motion of approval quite frankly standard discussions. I would bring to your attention item 3 regarding the street and trees. There was some discussion of other trees maybe Glen you are willing to just let that go and just with the gentlemen's agreement. But that's up to you. Also the only thing that I do see that needs to get added to this the waiver the requirement for the open space if that's to be added. I would suggest that be made number 11 the requirement of open spaces waived and because the open space was met in an earlier subdivision as number 11. Is there anything people would like to change I am suggesting to change an item 11 as just mentioned.

Rondeau: I have something involving number 11. Because something happened with entirely different party at a different time. A long period ago, I don't think that necessarily precludes someone having to follow the regulations today about open space. I can understand if the applicant does not want to provide open space. But he should provide fee in lieu of opposed to open space. That was one thing I wanted to mention. The other thing I wanted to mention is I agree on trying to keep that buffer of trees that Glen had mentioned earlier. But I would also like to point out that unless some type of regulation in the subdivision requirements they put the houses up and do whatever they want and soon as someone moves in they could and clear cut everything, so unless we put that in as some kind of conversation area or whatever. We have to do something more just hey we are not going to cut stuff down. Once the land owners get in there they can do whatever they want. Unless there is something in writing that prevents them from doing it. That whole point would be somewhat moved. I would like to bring that point as well.

Minnich: What are you suggesting for wording if you want to do that stuff?

Dupliese: I do not have a problem with that. I know Mr. Dagostino I know he is a very honorable man I don't think he has a problem with this. I don't agree with the open space part of it or fee in lieu because this was already a part of the original subdivision and that was granted. And they took the open space and this was set as a lot anyway. But I do think if we ask Mr. Dagostino and his partner to make that thirty foot along the road and thirty foot set back along the two properties as conservation to put a plaque on it. But they use it as a thirty foot setback. They are not doubling the set back area. I don't he would have a problem with that. I think tonight he actually nodded to yes he would leave those trees and if he is willing to leave the trees. I am sure he is willing the plaques on it and leaves it as conservation.

Rondeau: My suggestion was going to be if asked as the chairman did was if he does make that area conservation thirty feet along the back and thirty feet along Davis Street and shielding the trees I would recommend.

Masayda: In my opinion this is a two lot subdivision these are small lots, and to encumber a lot by thirty feet on the North side and thirty feet on the West side. Looking at the photographs looks like Duane said it most of its brush. I would go in fees in lieu of for the open space portion of it. As long as they meet the requirements of the street trees and whether they want to provide a buffer or a fence that's up to the property owner.

George: I concur with him except for the fees. The open space was already appropriated and now you want to dive into the same piece of property. I don't agree with that.

Minnich: Let me also speak about the fees. I will speak about the fees in lieu of we asked the applicant this evening if he was willing to give fees in lieu of, and my understanding he said no. Therefore we know the state law says we may not require it but if they say they want to do they have make the offer as the applicant. If the applicant makes the offer we then can consider it. So the issue of fees of lieu of is off the table.

Masayda: That being said it's also required that open space given for subdivision.

Minnich: Your right and the other conservations we had here are all apart of it.

Masayda: Not that I am holding people's feet to the fire. Based on your response I agree and respect everything you said however in that same token we can turn down the application because he did not want to give us any open space.

George: We can also waive that under open space regulations where it is less than five lots and less than twenty acres. The board can waive that.

Minnich: That section that you just referred to. I believe was in 2006 the commission changed that.

George: When you changed you said you can waive it.

Minnich: Yes you can waive it. I have no problems with you up to the point with the five acres in the five lots all of that we took away. We still gave ourselves the authority to waive.

George: You gave yourself in regards to waive. You said you must.

Minnich: Yes. We are all on the same page.

Dupliese: If you look at the pictures. And Duane I don't like to disagree with you. If you look at picture three that they supplied. Picture number three is the same as my back yard. I have trees like this and 15 deer in backyard at one part it is large enough to contain wildlife. That being said if Ken and Mike are willing to put that thirty feet because if you look at their site plans their not touching that thirty feet at all. Their site plans do not touch Evelyn or the back property and mark it and give it to us as conservation. It only enhances the people's property nobody touches and nobody builds on it for privacy for their back lots.

- Minnich: Let me talk to those who are talking about this thirty foot issue. Why have we talked consistently amongst this commission of not taking little bit and pieces and make for open space or conservation area that we didn't want that. It serves absolutely no purpose to do that and now to take up the thirty foot space and the thirty foot set back is for that very reason to protect neighbors.
- Dupliese: The seventy foot setback just means to not build another building in there. You can't cut down all the trees.
- Martin: But common sense tells you that somebody is going to build the house there and they are going to want their privacy. They are not going to open that wide open from traffic going by. You want to leave that closed. Leave it buffered. Common sense says they are going to build it, leave it buffered the houses will go in where they are saying it will go in.
- Mancini: I don't think we need to say we need open space on this area. I would like to see a buffered zone that's going to be there as a buffer zone. Instead of just saying that we want to deed this as open space. I don't need that but I would like see a buffer. I'm not looking for money in lieu of open space. I don't want open space but we should guarantee some kind of buffer.
- Dupliese: I don't know what terminology you would put in other in conversation.
- Mancini: One area you have thirty five feet and another area you have thirty and then you only have ten.
- Minnich: The only two instruments we have is conservation easement and open space. All the rest is defined as our setback in zoning.
- Mancini: I feel that when people buy this property buy the houses will want to buffer the zone on their own.
- Maysada: There's a possibility for the applicant that may get voted your property is going to be encumbered on Davis Street side by thirty feet and west side thirty feet where you give the ten percent in lieu of the open space. Which is a minimal amount that you agree to that we won't have this issue here. It's up to you. To accept this subdivision as presented I want to move forward and make this motion to accept this subdivision as presented.
- Minnich: No motion is in order. You have to say you want to go through this. Motion to move the question. Any further questions? All those in favor of moving the question please say I. Motion is approved.

WHEREAS, the Watertown Planning and Zoning Commission (hereafter “Commission”) received an application on March 5, 2008 for a two lot subdivision located on Evelyn Street and Davis Street, Watertown, CT in an R-12.5 Residence District consisting of 1.296 acres owned by Michael D’Agostino, 555 Davis Street, Watertown, CT which includes a Record Re-subdivision Map dated 11/1/07 with a final revision date of 1/24/08 and a Site Development Plan, Grading, Sedimentation Erosion Control Plan dated 11/01/07 with a final revision date of 01/24/08 by prepared by John L. Thomson, 163 Savage Hill Road, Berlin, CT; and

WHEREAS, the Commission convened a public hearing on April 2, 2008 and heard the application the same date;

NOW THEREFORE BE IT RESOLVED that the Watertown Planning and Zoning Commission **APPROVES** the re-subdivision application for a two lot residential subdivision in an R-12.5 Residence District titled “Davis-West Section II” with the following modifications:

1. A bond shall be posted for all public improvements in accordance with the bond policy adopted by the Commission, soil erosion and sediment control, public improvements, drainage and site stabilization. An estimate of all improvements prepared by the applicant’s engineer must be submitted to the Town Engineer for review and approval. This estimate can be e-mailed directly to Charles Berger, at [Berger @watertownct.org](mailto:Berger@watertownct.org), and Ruth Mulcahy at mulcahy@watertownct.org. According to town bond policy, the bond provided by the developer will be a Letter of Credit and/or a Cash Bond to be reviewed and approved by the Land Use Attorney.
2. All maps shall meet the requirements of Section 4 of the Town of Watertown Subdivision Regulations.
3. Street trees shall be planted as approved by the Administrator of Land Use or the existing mature trees along Davis and Evelyn Street may be substituted subject to approval of the Town of Watertown Tree Warden.
4. All recommendations of the Town Engineer and Administrator of Land Use shall be followed.
5. All lot pins shall be placed before issuance of a zoning permit.
6. A waiver is granted for the underground utility requirement to allow above ground utilities in accordance with Section 3.4.9 of the Subdivision Regulations.

7. Concrete sidewalks are not required as concrete sidewalks exist along Davis Street.
8. Prior to Town officials signing mylars, final plans shall be submitted for approval and accepted for approval by the Town Engineer and the Administrator of Land Use/Zoning Enforcement Officer, and are subject to review and approval by the Commission at the discretion of the Chairman or Commission.
9. A preconstruction meeting is required to be held with Town staff, the developer, the onsite contractor, and the site design engineer prior to any on-site activity.
10. The Record Re-subdivision Map mylar and required legal documents must be filed on the Town of Watertown Land Records before June 30, 2008.
11. Open space is waived because the open space requirement was met in an earlier subdivision at this property.

In accordance with Section 8-26c of the Connecticut General Statutes, all work in connection with this Re-subdivision shall be completed within five years after approval of the plan. Said five year period shall expire on April 2, 2013.

K. Demirs recused himself from this application.

Text of Motion: Move the question

Motion made by: R. Russ

Seconded by: G. Martin

Aye: 7 Nay: 0

Text of Motion: Approve G. Martin

Seconded by: D. George

Aye: 7 Nay: 0

b.	Applicant:	Joe Polletta
	Agent:	Charles Spath, Stuart Somers
	Re:	Modification to Lakeview Estates Subdivision to eliminate through road to Mallory Road

At:	Mallory Drive, Watertown, CT
Zone:	

Minnich: Lets read from section 5.3.111 dead end street off the Watertown subdivision regulations that were effective February 11, 2006 are effective to this date. The second paragraph dead end streets are permitted but not encouraged and shall provide sole access to exceed 15 building lots and shall not exceed a length of 1000 feet. The commission by a three quarters vote of members of the commission may approve to sole access to dead end streets to exceed no more than twenty building lots. The street shall not extend two thousand feet if the street is safe for vehicular access including emergency vehicles. The meaning of the three quarter votes is that requires six of our seven members to approve affirmatively if it is to be approved. Where do we start with the conversation?

Is Gary coming back in? He should be part of this.

Masayda: Mallory had a sidewalk. Correct. I would suggest as a possible condition because we had to use the town sidewalk fund in order to do that portion for the frontage of that subdivision along Echo Lake Road that if this gets approved that plus or minus three hundred feet if the sidewalk on Mallory Road be installed on that portion of that part of the subdivision that was going to be from the town sidewalk fund.

Minnich: My view point I think that the conversation of the sidewalks would be just as meaningful when the applicant comes back to get his property changed. Because he has to make a re submittal for his subdivision to change or modify the subdivisions and at that time when they come back for site plan modification the commission is free to make any changes once they open the door and the door is open and we can make any changes to the subdivision we desire. So perhaps that would be a more appropriate to discuss and consider additional sidewalks from what's already have been approved. Right now the issue before is which would go on line with what we had talked about earlier. I understand our ruling to be this issue is limited to whether this is to be open or closed on Mallory Road. And the other issues we were I thought we were going to decide on later time.

Martin: I support that decision.

Minnich: All set Mike.

Masayda: Yeah.

Mancini: As far as discussion as far as proposal I think that the commission should listen to the residences and homeowners in the area and their concern for the safety for their children. And that's the only reason why I would agree to not put this road through. I don't think it's really needed and that's how I am voting.

Martin: Again, and as stated earlier if this was the end of the cull de sac I would stay firm and say connect it through, but it's not if you go to the site and look at it doesn't make sense to run this thing through. Go to the site and look at it and you will agree.

Blais: I think this a win, win situation for the residents and the developer and everybody will be happy.

Dupliese: I would like to move the motion.

Minnich: There is not a motion, but if you would like to make one. Might I suggest that the motion be that the Watertown Planning and Zoning Commission waives the requirements for section 5.3.11 for the extension of Mallory Road. And that Mallory Road not be extended and the sidewalk that was adjacent to that road not be installed.

Minnich: Is there any further discussion.

Text of Motion: The Watertown Planning and Zoning Commission waive the requirement of Section 5.3.11 for the extension of Mallory Road and specifically that Mallory Road not be extended and the sidewalk that was adjacent to that road not be installed. The reason why the waiver was made is because a petition was brought to the Commission by the ten residents who live on Mallory Road as to why they did not want Mallory Road extended over to Lakeview Estates and that one petitioner was not notified that in the future it could be a connection. Another reason why the waiver was granted that by taking the action that the Commission did, improves the public safety of that area and keeping that road closed is in the best interest of the Town.

Motion made by: G. Martin

Seconded by: C. Mancini

Aye: 7 Nay: 0

Minnich: We are required under state law to indicate the reason why we have a waiver so let's this put this on the record. I think Carl you just made a comment why you did it. But a few of us need to put on the record why we made this waiver.

Dupliese: We have a petition brought to use tonight by the ten residents on Mallory as to why they did not want Mallory extended to Lakeview Estate and being that one of the petitioners was before us tonight that he had bought his house thinking he was on a dead end road and I agree with that. Unless these people are notified that in future that there could be a connection it is not fair to the homeowners to extend their streets so they are no longer on a cull

de sac. And that's why I voted in favor of eliminating the extension of Mallory Road.

Minnich: I wish to state my reason, I believe by taking the action we did improves the public safety of that area. Keeping that road closed is in the best interest of the town. Is there anybody else? We will forward to the next topic.

c.	Applicant:	The Taft School
	Agent:	Ron Bomengen, Fuss & O'Neill
	Re:	Special Permit # 244 Addition of dining hall to dining hall known as HDT/Dining Hall
	At:	110 Woodbury Road, Watertown
	Zone:	R-20F

J. Blais excused himself from this application.

R. Rondeau sat in for J. Blais

Minnich: Okay it is your floor.

Ron Bomengen, Fuss & O'Neill Civil Engineer Manchester

I am here tonight with Bill Thornfield from Taft School on with Lou Karekedy and Eric Svahn the architect from the team. We are here tonight for an application for site plan approval for the reconstruction expansion for the dining hall at Taft School. Special permit is required because it is a private school in a residential zone in an R20F district.

I think the first item to address is the application fee waiver. In accordance with the fees established by the Planning and Zoning Commission a fee of 35,500 would be acquired for this application. A letter was written by Gil Thornfield it's dated March 26 it was submitted with the application requesting that the fee be waived. Under section 3.2 of ordinance 10-1-07280 section 3.2 says the commission at it discretion waive all or part of the land use application fees and authorize refunds and fees for the application if one or more of the following are true.

A. an application is refilled and accepted by review by the commission within one year of application withdrawal. We don't meet that one.

B. the activity applied would in the commission's determination would result in substantial public benefit. School provides substantial public benefit through other methods Gil will talk about those in a second.

C. the commission determines there been an error in providing land use fees in land use application that doesn't not apply. If Gil would come and

talk about their public involvement with the school, and hopefully we can get this 35,500 fee waived.

Gil Thornfield Business Manager Taft School

The reason we requested the fee waiver is that we were not looking not to pay the fee it is just that we are trying to reduce it because of the amount of the fee. We are willing to pay out of pocket the costs and a reasonable fee for the permit. But we think we could waiver based on the fact that our facilities are used by the town. Our fields are hockey rink, Walker Hall, Thingum Auditorium we have all those facilities at no cost except for the hockey rink which we charge an out of pocket fee for its use. Dance recitals, musical events and concerts in those facilities. So based my on letter we are asking for that fee to be reduced to a reasonable amount and kindly request that request from you guys. Thank you.

Minnich: Would you like us to take that up now? Or do you want to proceed.

Bomegen: If you feel like its necessary to act on that now. Which ever way you want to do it now. I think I will introduce Eric now to talk about why we want to do this and the architecture of the building.

Eric Svahn Gund Partnership

What I would like to show you the site of the school. Here's the outline of the property of the school and the main part of the school is located over here the yellow dot representing the location of the project. Our office has previously completed other projects, a science library building here, a hockey rink here; we did work on the dining hall project back in 1998 or 99. And the school has attempted several projects over the years since the dining hall the current facility was built in 1950.

This is the existing building plan Woodbury Ave is down here, currently they have two dining rooms and a kitchen which is in the orange here and a surrey which is really small. So the project is to build a new kitchen, a new surrey and new dining rooms. The current facility was built in 1950 that is the kitchen and what is called the Easter Armstrong Dining Room Hall which is this room a 1950's buildings. This building is 1910 to 1917 it had a headmaster's house, a large function room or dining room and this entry tower which you see later on in the elevations. Since that time the school at 1950 had four hundred and ninety students. They went coed in 1972 and currently have a student population of five hundred and sixty five students there is no addition of students it just to update the facility not an increase of students.

Here is the existing dining room that is being renovated and kept as an existing dining room. The old kitchen is being made into a second dining room. We are adding a new West dining room and adding new surrey and a kitchen in the basement level where the existing dining room is now.

This is the plan with the existing, with the dashed out line and the outline of the new building. The effort and thought here was options of building an addition or a separate building somewhere else on campus and this building was thought to be a add on or an addition with the minimal encroachment on the campus expansion.

These are the new proposed building elevations this elevation is on the North side. It faces the pond or what was at one time the back the school. The service area of the school has become the front or main part of the campus. What we have tried to do is use elements such as towers that match the existing features, sloped roofs, brick and matching window surrounds. This portion of the building down here is the new West dining room and again it has the same towers and window features. Where we did request receive a variance on the height particularly for the tower which is 15 feet over the 35 feet in town on the premise that existing building and use of the school facility required the use of larger scaled buildings to meet the needs and function of the school.

And this is a model that shows the current addition and this building here in this photo. This is the new West dining hall surrey has a flat roof that is tucked in. This building and the building in the back exists.

Would anybody like me to review or show any other plans? That's all I have.

Bomegan: We got the high variance of fifteen feet. On March 13th we went to the conservation commission we will be going back on April 10th the next meeting. We don't have approval or decision made on that one yet.

Minnich: Are there Wetlands?

Bomegan: There are wetlands, there is a pond. There are wetlands but there are no wetlands impacts. Were impacting 428 square feet which is the upland view area. Which is fifty feet from the pond.

Existing features of the site. Currently the site consists of a quad area here the loop driveway for delivery vehicles enters this site. It is a loading dock on the Northwest corner of the dining facility. One of the main entrances for students and faculty is right near the main loading dock. It's very unsafe. I could be safer. In this area there is a McIntosh House here a dormitory so students go through this quad often or it's the dining hall.

Pond that I mentioned is in the back here. You can't see it on this plan. Woodbury would be off the sheet down on the bottom here.

Using the overlay it shows the proposed building that's going to be moved out about twenty feet further out than the patio area here now. Existing building ends here and there's a patio and then the new building will be twenty feet further out than that which as you can see cuts off that driveway a little bit.

So now that the driveway loop is cut off there is no more vehicle access entering that site through the area. We have to find a new spot for the loading dock. We will move that out closer to the street further South of the building. This is the new loading area here. Trucks would enter through one of the entrances in Taft school which would be right about here on Woodbury road and to site that can make this turn and then back to the loading dock and exit the same way they came in.

This area in here the quad area it will be just for pedestrians now. The students and faculty there are removable bollards that can drop down in case of emergency. There is emergency access to the back of the building. The pathways are ten feet wide for that. The main entrance to the dining hall would be roughly same location. There several existing trees on the site that the school would like to keep and with that there is very little grading. There are no mass cuts there is no deep cuts on the site. If we could take off the portion of the existing building and drop down the new proposed building that what were are intending to do specially this oak in the quad.

The site is mostly going to be covered with mostly lawn. Some new trees are going in and shrubs. There will be no increase or decrease on the parking site.

Type of lighting going on the site is exactly what out there now. The same lights they are going to relocate lighting or add new lighting using the same style lights. There are handouts in the application we gave to you for that. They are in appendix D.

The site utilities here are gas, water, sewer and electric communications. They are all on site we don't have to make any new connections on the street. Fire district signed off on the water and sewer that's in the application we provided. As far as the Fire Marshall sign off. We sent the set of plans to him. We are still waiting from a sign off from him.

Drainage on the sight is most going to be yard drains. Cause there is no new roads so we don't have to use catch basins. There is a couple of catch

basins in the loading area all the drainage will be going through hydro dynamic separator then entering the existing storm sewer system. All the yard drains and catch basins will have somas to remove large sediment particles before it enters the hydro dynamic separator.

There is a slight increase of impervious pavement on the site mostly because of the building size. It is .05 acres it very small. We don't have increase in peak run off from storm drainage because the school intends to capture some roof drainage to use for flushing toilets in the school. As well we had this area split into two different water sheds and we increased one of the water sheds to the South here which increased the time of concentration. Basically we have a peak balance peak run off.

During the construction of the dining hall the kitchen will be out of service for a while the school would like to have temporary trailers located there. It's plan provided on C600. Basically it's the far North East corner of the pond behind the building there is a location on the map that shows two twenty six foot long temporary dining kitchen trailers where they can make the food for the students. And I think it worth it to provide you the information that going to be a lead certified building. I believe it gold so they are doing the best to make this a green building very environmental friendly.

Thornfield: We have currently seating for 460 students in the dining hall. What is integral to a boarding school is sit down dinners that we have twice a week. And in order to accommodate 560 students and 110 faculties this project will help us to that. So the final seating will be something like 662. I think and we haven't been able to have sit down dinners with the whole school because of the current situation. The other thing I wanted to point out was the issue of safety. A van came charging into the circle at a high rate of speed ran out there and stopped because students are crossing on regular basis. We feel that moving the loading dock to the front of the school will be significant improvement with safety on the campus. The dorm that is opposite of the dining hall are girl dorms so they constantly crossing there and also crossing the athletics fields. So this project has given a lot of thought in terms of the seating and safety aspects. We are looking for a gold reading on the building and environmental friendly as possible. To integrate with the other buildings on campus the final product you will see will be seamless when the construction is done. Thanks

Minnich: What is before this evening is to consider accepting this application for view and establishing a public hearing and also to consider your request for waiver of the fees so we are going to have another opportunity to ask questions when the public hearing comes or we can ask them now.

Dupliese: There was one overlay that they showed the property boundaries for Taft property. I don't know which one it was the first one maybe. You own on Woodbury Avenue? You own a lot of those homes that are within those boundaries. Correct.

Dupliese: Can you just clarify this one. On the homes that you own when you bought those homes do you now pay taxes on them?

Thornfield: No we do not.

Dupliese: Those come off of the tax roll.

Thornfield: Correct.

Rondeau: How many scholarships do you provide for Watertown residents?

Thornfield: That's a good question I think that off the top of my head I can say there are not any. Watertown residents that come and pay most of them are scholarships including the faculty members who are on remission. Some of our best students are from Watertown.

Rondeau: I'm only telling you from what I heard. I understand at one point there were two scholarships each year for Watertown residents to attend Taft and heard that not in the distance past those had been rescinded for lack of a better term.

Thornfield: That's not true.

Rondeau: Can they attend there for free. How does that work?

Thornfield: Both. Scholarships are given based on need.

Rondeau: Are there any specifics that are put aside for Watertown residents. If there is scholarship available to anybody in the world vs. Watertown scholarships are based on need and not discriminated whether they are Watertown or Woodbury or any other town. Twenty four percent of tuition is scholarship goes back to scholarships.

Mancini: I have another question. Can I ask how much is this project estimated to cost?

Thornfield: The construction cost on this project is 17.2 million.

Mancini: I heard this number. What I am trying to say is that your talking about waiving 35,000 on a 17 million comes out to about two tenths of one percent of the project.

Thornfield: It's 35,000 for a special permit. Believe me every single penny that we spending we are spending on this project we are honing.

Mancini: I understand may I get to a point here it will put me in a bad position because I am also on the town council. I was also chairman on the budget committee for the last two years on the town council and this year I'm just on the budget committee.

Thornfield: That certainly puts you in a bad position.

Mancini: Taxpayers in this town are looking at a 14 percent increase this year and probably 20 percent increase next year for us to waive 35,000 for you. I just don't understand how I can do that. I understand all the things you do for the town.

Thornfield: We don't want to be treated any differently than any other non profit school the fee has been waived for.

Mancini: I understand everything you do for the town. You don't have to pay taxes on those homes. But I know you do contribute in lieu of taxes 105,000 to this town.

Thornfield: We also give to the fire and police department. We give other donations.

Mancini: It still only ten percent of what taxes you should be paying. So the town is giving you. I don't see how two tenths of one percent of a 17 million project is that much to you.

Minnich: My position I have long held that the homes are non tax exempt. But that is not the issue before us tonight. The issue is you're at a school; you are making an improvement to the school. We have long recognized that schools even our own are tax exempt I have no issues with that. I go back to our discussion we had just a year ago and quite frankly discussion with the town council encouraging them to change our fee structure. Which was that it should be changed because the behind of the fees was that they would be paying for the fee for the expense of the town? And Taft school has said both in writing and verbal whatever was said this evening that the towns cost is for this special permit application, including staff time and so forth that they are going to pay for it. But anything different from that in terms of a higher number that's really having an issue with. I think Taft school has been around in our community since 1890 and served this community in its public benefit as very few other institutions have had in our town. Taft school when you talk about Watertown outside of our community the first thing they talk about is Taft school. I think that you are a pride of our town we should be looking for getting our costs that

which you are asking for. The computation of the fee structure is such that it is no way possible that we are going to get 35,000 worth of expenses for this. And I as you heard me when we talked about this fee structure. I have been long critical and remain critical but step back in the interest of trying to get things going to the issue when you have a large amount of dollars 17 million in this case. And you multiply it by our fee structure it is out of whack every time. This particular regulation that we put in here allows that the commission may determine that the activity applied would be in the commission determination will result in a substantial public benefit and if we make that determination we get over that hurdle. We have justification in our regulation to give them that waiver of the fee. I am so doing that Taft School our expenses, and they will pay that we bill you accordingly. So that's my long winded expression I think Taft School has been a wonderful institution to our town and is a public benefit to us.

Masayda: I would also have to agree with Dave I agree we should give them a waiver of the fee excluding expenses to the town.

George: I concur.

Rondeau: I would ask. Would Taft be willing to provide one of the scholarships, you have mentioned there are many students that are going there under scholarships. Would you be able to provide one of those scholarships for Watertown residents?

Thornfield: I think we do by default. Let's not forget we have 14,000 applicants for roughly for 150 positions at the school. And we have students from 23 countries and 33 states. We take great pride with the students we have from Watertown because they usually are the best students that come. I will take that back to the school and make that recommendation. I can't say myself if that is something we can do.

George: You already do that. My neighbor on North West Drive their son is a recipient.

Minnich: And I commend you also when the incident happened with the Gilulu family in the town and the tragedy that happened with the aircraft crash. Taft school stood up and said all those kids can go to your school free. That's great.

Thornfield: We also took three students from Katrina from New Orleans free of charge. Most people don't know that. That another thing we do.

Minnich: Let us move on here. There are two parts that I may suggest. One is to make a motion that the Planning and Zoning commission accepts the Taft School application special permit application for review. And authorizes

the chairman to establish a public hearing at his discretion. Any further discussion? All those in favor say I. May I suggest another motion that the commission under section 3.2 of the town of Watertown ordinance 10-1-07-280 waives the application fees for special permit #243 in that activity applied does in the commission determination provide a substantial public benefit and that the expenses of the town of Watertown incurs for this application will be billed and paid by Taft School to the town of Watertown.

Dupliese: I would just like to ask one question. Do we have an idea of what the expenses would be? Does anybody have any clue what the expenses would be? Would it be 10,000 or 5,000 or 50,000?

Minnich: I can't imagine that it is going to be 7,500. I can't imagine it going higher.

Dupliese: Are they going to provide the road engineer to oversee this? Are you going to have a third party engineer overseeing all the construction? You are going to have you own building inspector I don't think has a ton to do with it does he? Our expenses are going to be minimal.

Minnich: Well those expenses are going to be minimal. Real minimal in fact 7,500 are too high.

Thornfield: We are willing to commit to a fee right now whether it is 5,000 or 7,000.

Mulcahy: I would rather have it done that way.

Dupliese: Rather than the billing and the nonsense. Play it safe he says 7,500 would you commit to 10,000 at the maximum. That way there is no billing fee.

Minnich: If that what the commission wants then 7,500 relates to the premise that they pay for their expense. I am not going to back off on it. If someone is willing to give us 7,500 I will take 7,500. I think that's a little high but.

Dupliese: That eliminates the record keeping from the different departments that are involved. Ruth thinks that is fine.

Mancini: Would the applicant approve 7,500 and if we could say it would not go over 7,500 you would pay more.

Mulcahy: I think that is a reasonable amount. Looking at the Bailey enforcement is was 10,000 and we have our lawyers and a third party for review.

Minnich: Let's move on here. Then if I may, let me rephrase the last part of that motion is that Taft School will pay 7,500 to the town of Watertown.

- Dupliese: If there was some reason it would go over, like an attorney, architect a third party review they would pay it.
- Minnich: You are making it more complicated. What does the commission want to do? I am not supporting anything more than 7,500. Somebody else make the motion I am done.
- Masayda: I have no problem with just the billing.
- Minnich: The last part of the motion is that the fee is for this from Taft School to the town of Watertown is 7,500 for the special permit # 243 application. Is there somebody who wants to make that motion? You need to bring those back to the public hearing. One other item I forgot to mention when your going to be presenting this again I did not see in the file but you may have a letter from the Health District relating to this school both for the temporary facilities as well as the permanent facilities they will need to sign off and have that at time of public hearing.
- Martin: Yes, I am going to be very interested in the temporary facilities. I will tell you that.
- Dupliese: Well they are going to the back of the school. They are not going to be in front of the school.
- Martin: Not where it is. But what is producing, where it's going, how it is connected, grease traps all that kind of stuff.
- Mulcahy: They have discussed that with the staff.

Text of Motion: Accept application for review and schedule a public hearing at the Chairman's discretion Taft School has committed to paying \$7,500 for fees for special permit #244 to the Town of Watertown

Motion made by: G. Martin

Seconded by: G. Dupliese

Aye: 6 - D. Minnich, M. Masayda, R. Russ, G. Martin, G. Dupliese, R. Rondeau

Abstain: 1 - C. Mancini

On a vote of 6 in favor, none opposed and one abstention, the motion is approved.

- d. Applicant: Cercemaggiore Club
Agent: Richard Bruno
Re: Special Permit #242 for a Gazebo

At: 550 Sylvan Lake Road, Oakville
Zone: R-30

Attorney Bruno – 220 South Main St. Cheshire

This is an application for a gazebo on the Cercemaggiore property on Echo Lake Road. I think most of you are probably familiar with this, the applicant Grand Oak Villa and I represent them. The gazebo we are applying for it already exists as you already may know. Rather than making a presentation now any questions that might come up at the public hearing I would be happy to answer them. All of the exhibits are in the courthouse. There is an action pending in court on this gazebo that will be withdrawn before the public hearing. It is scheduled to be heard later this month. I have a withdrawal that I signed today withdrawal of the action. I contacted Attorney Jessell and he will be getting a copy of that as soon as it is filed either this week Monday or Tuesday of next week. If you have any questions I will be happy to answer them. But I think they should be reserved for the public hearing unless you have some questions.

Rondeau: There is something I would like to hear that actually everybody would like to hear and this is why there is an existing gazebo that is there currently there for the proper permits and know I have heard about this and Mike heard about this in the past there is a lot of new people on the board that don't know the Church of Majority history and that might be of interest to them to know what's going on.

Mulcahy: Attorney Bruno that would be a question for you to give them some background on the gazebo.

Rondeau: There is a history with the club it goes back over twenty years. Anyone that's been there knows of the history. When the DiStacey Catering took over brought out the catering business they thought everything was clear they were not familiar with all of the regulations and special permit procedures. They built the gazebo and suddenly they realized they needed a permit for that. They were under the impression that Clover Farms who provided the gazebo was getting a permit for it. That did not happen and the next you know they were here before the commission. The commission at that time restrained them from using the gazebo at all. They are not using it. We did bring an action; there is an action that can be resolved by the court. However that might be sometime next year by the time the court decides it. There will be a hearing rather than to have the hearing we would come back with a new application to see if we can resolve this without going into expense not only for applicants but for the town. The town has to pay counsel fees as well as the applicant. It's an unfortunate situation that occurred when it was built without a permit. The building official who is now retired went up and looked at it even took

pictures he said would issue a permit as long as it was granted by the Planning and Zoning commission.

Mancini: Could I ask one question? I was not on board when this happened. It is a gazebo what would have normally happened if they came and made an application for a gazebo if it was not there. What would we have done? Can I ask another question? What would we do if a homeowner wanted to put a gazebo in their yard and put one up without a permit simply found out that they have a gazebo that's illegal what would we tell them? Okay go to the zoning office and apply for a permit. Get the permit pay the fee.

Blais: In this instance, I think that we commission though we were expanding their business to use the gazebo for weddings and things outside the hall. I think that was an issue. And they didn't do without asking permission.

Mancini: I understand that. I got that from Attorney Bruno. They did it without permission.

Mulcahy: If you want me to answer that. Because it will come up on the agenda later on the agenda on the staff report. Because what you are asking is a very good question. The uses are divided between permitted uses and under your zoning regulation especially in the Watertown zones you say as an right of use like when you ask about a single family home coming for an accessory structure as a gazebo. We would issue a zoning permit we would ask them after the fact and if they had one built and get a zoning permit because that is listed under most of residential zones as of right permitted use. Now in the case of what he's doing right now is exactly now they would do normally as a non residential use you require it to have a site plan. And that's what this is what he would normally do as what they are doing right now. They would come before this commission for this addition for this site plan. So that the difference how you classify the uses in your regulations.

Rondeau: I think it's important for the members. I think the members heard the Church of Majority Club's definition as to what is going on and why would we have this become an issue. But having sat on the board for a number of years having heard a number of things that have been going on I think it is important for the board to realize that this is not the first time that something like this has happened. There is a history, this facility has a history of doing things like this and have been doing this for quite some time. Whether it's been using their facilities for weddings when they never had a permit to do so. What you also have to remember this was originally a social club that is in a neighborhood with other residents. And it was originally permitted to be put in as a social club and it has turned from a social club into a business that doing weddings, all kinds of other events with hundreds of people. It has gone from an entirely different flavor from

what the facility was originally intended for as to what it is now. And it was not a matter of whether they just put up the gazebo for the first time and that was the first time anything ever happened. I think that it would be a good idea and look at the past minutes. It has a history doing what they want. And when someone brings it to our attention that in fact there is gazebo up and they never got a permit that how we found out the gazebo was there without a permit. It wasn't they came in said we didn't realize we needed a permit it's was the neighbors policing this facility to determine the fact that things are going on that are not appropriate.

Blais: Through the courts and attorneys that I am not going to be an expert on this but there were some type of resolutions with our town attorney at one point. Maybe Ruth knows what that disposition was but there's been some type of resolution that stopped this litigation now it's pending. Do you know the status of the club is now?

Mulcahy: Actually no I will look into it. I was just hearing from attorney Bruno I did not hear anything from Attorney Jessell today. We will get that information and send it out in the packet.

Blais: What was the policy for the town attorney at the time and there was some type of resolution that there was something was resolved I am not sure what it was.

Mulchay: I will contact both of them to ask if we can put something in the packet.

Rondeau: I just think my point is everyone should be aware this is just not an innocent someone put up a gazebo and they just did know any better. They have been having flagrant violations repeatedly. So everyone should be aware of that. Don't take my word I suggest strongly contact Ruth and get all the minutes regarding this.

Attorney Bruno:

I can represent that the history was part of the record that went into court. That the last time we were here the whole history of the club was presented in about a foot of paperwork. I will assume that will come in. Everyone will know what the history has been. It is not anything that anyone was trying to keep from commission or from the public.

Minnich: Okay. I think often times when we come across issues no matter what they are in this case the gazebo. We kind of shake our heads at least or at least I do anyway and look at this in the bigger perspective and just shake my head and say what is this all about. They have a gazebo the location of it, the size of it is all up for discussion. To have a gazebo for doing photography they have a right to come to us for that special permit they

have apologized for the process and you have Mr. Bruno have done more apologizing for this than you really needed to do as you did last time. I think we need to take the merits of this on the basis of we would for any application and consider whether we want to have it there. The next step in this process if we decide to accept this application for view and establish a public hearing. If we don't the issue then is we all go and debate this in court and have some judge and spend money for town attorney to do this, which is fine and we can go ahead and do that. We are fighting over a gazebo that why wouldn't we have a gazebo we may not want the place of it. But why wouldn't we want say okay to a gazebo?

Martin: There is a lot more to this than just a gazebo. I remember being in full support of it until all of sudden they were suppose to have it closed it was not to be used and we found out it was being used all along. Like to heck with the commission I am using it. That was what I think got them in trouble. I don't think its about the gazebo I believe it's about what's been done to this commission in the past that I am willing to say is in the past and the new administration is taking over the running of Church Majority and they are going to do a better job of it. No let it go to the way it is going to go and because of the position the Church Majority had taken with us saying we are going to do whatever we want to irregardless of what you are saying. And we had asked them to close that gazebo and to keep it off being used until we got to the bottom of this. And they were not even willing to do that. So to that point yes there was some issues here with the gazebo I'm mean time heals all wounds and maybe we are all a little softer to it now but there was that.

Dupliese: I think you make a good point. I think at this point though there is going to be history there was bad blood with neighbors whether the thing should have gone in not gone in. And a thousand dollars of attorney fees I think at this point this is my opinion the gazebo is there we have lawsuits in court we have spent money with attorneys fees we are never going to get that money back. And in my opinion and we have done this with violators in the past let's ask for x amount of dollars to pay back for our attorney fees. And let this thing go and have them pay for attorney fees or whatever it is and get this thing off our plate.

Minnich: We don't want to ask for money because we are not allowed to under law.

Dupliese: Bailey they were a violator right and they paid our attorney fees.

Mancini: Excuse me let me say Glen is saying we can ask them for fees but what if they came to us and say because of everything that has happened we know we have cost the town money we want to make an offering to the town for sidewalk and building maintenance or whatever to come to a resolution get it over and I believe I heard the attorney say you were going to drop

the lawsuit you would be willing to drop the lawsuit have potential cost coming up in the future. So why can't we discuss how to solve this problem instead of going to court.

Rondeau: I would like to make a comment. There are two issues one is the chairman not to earlier tonight be more than willing to go to court on a totally different issue.

Minnich: I was being threatened to go to court. I did not want to go to court.

Rondeau: The fact is you were quote unquote threatened not fined we will work on this and we will just go to court.

Dupliese: I didn't say go to court.

Rondeau: The other point I wanted to make is that it is not just a matter of a gazebo there is a neighborhood of people that live in this neighborhood. When they bought their house they didn't buy their house in a business district. The neighbors point and I hope they will show up for the public hearing is that again is residential neighborhood and a business continues to grow and grow and grown and expand taking over more of the neighborhood and we were talking earlier about why we should we not open a road for the safety of the people in neighborhood. You have got to remember that additional traffic and additional cars lining up these roads to get to this facility. These are all things that people have to take into consideration. It not just a matter of a gazebo. There are a lot of other mitigating circumstances that really should consideration.

Masayda: I agree with Ray, Ron, Gary, Dave again that several residents came out they could see from their house they are worried about location, activity, the gazebo, the expansion of the business, there are all these issues that took hours and hours of this commission's time on several occasions. Which in my opinion I just let it assume to go to court let them decide and there are numerous issues that could go into other issues.

Russ: I just like to go forward that we accept the special permit for the gazebo for review and authorize the chairman to establish a public hearing.

Minnich: Is there any further discussion? Hearing none sensing it would be controversial. Carol would you please call the roll.

Rondeau: One point. I want everybody be aware of the fact there is now guarantee that this is just going to go away. Yes he is saying we will drop the lawsuit but if for some reason or another they don't get what they want there's nothing preventing them from reestablishing another lawsuit and having us go through the entire thing again from scratch. And if we have to

happen to have a different attorney at that point in time now attorney fees from day one when he reviews everything vs. something that is already 75% complete its not just a guarantee this will be done and over with if we just vote on it.

Minnich: Is there any other further discussion?

Masayda: If this comes before us again every aspect of this gets to be reviewed the electricity at the gazebo, the use of the gazebo, the whole thing gets reviewed again we did it all ready do we review it again.

Minnich: Any further discussion. Carol would you please the roll for the purpose of recording our votes. The motion is to establish is to accept this special permit for review and to authorize the chairman to establish a public hearing.

Text of Motion: Accept special permit #242 for review and schedule a public hearing at the Chairman's discretion

Motion made by: R. Russ

Seconded by: C. Mancini

Aye: 6 – D. Minnich, R. Russ, G. Martin, C. Mancini, G. Dupliese, J. Blais

Nay: 1 – Mike Masayda – the reason is because the issue was in front of the Commission previously, it went to the courts and probably will go back to the court and expenses involved.

On a vote of 6 in favor and 1 opposed, the motion is approved.

e.	Applicant:	Robert Velardo
	Agent:	Dennis McMorrow, Berkshire Engineering
	Re:	5 lot residential subdivision
	At:	Bassett Road, Watertown, CT
	Zone:	R-90

Minnich: If I may start out the conversation we open and close this public hearing. My suggestion is to that we denied his application without prejudice. With no statement with regards to the fees whether they will be waived or not. And the reason for the denial is that this application is at the time of public hearing not complete. So that's my comments does any one else have comments? Hearing none. May I suggest that a motion be made to deny this application for 5 lot residential subdivision without prejudice and that the subject of the fees be decided at another time?

Also we give opportunity at this time if you have any other reasons why you denied it we need to put that on the record. If any other member wants to give a reason.

Dupliese: They already published and we already spent the fees so we take our time to come here and they don't show up. There is no reason to accept this.

Minnich: I am just covering ourselves in case they bring us to court. Anybody else has comments for the record. No. Then we will move on.

Text of Motion: Deny application without prejudice and the subject of fees being waived will be decided at another time. The reason for the denial is that the application was not complete at the time of public hearing.

Motion made by: G. Dupliese

Seconded by: C. Mancini

Aye: 7 Nay: 0

f. Applicant: Curt Titus
Re: Site Plan/Special Permit #243
County Line, Inc. BMW
Addition to building to expand
the service department
At: 699 Straits Turnpike, Watertown, CT
Zone: B-SC

Curt Titus Attorney Maloney and Drowney

I am representing County Line Inc. doing business as BMW of Watertown. We have an application for special permit and site plan approval at your last meeting on an informal basis. Since that time we have filed our application it is essentially expansion of the 12,851 square foot building up on Straits Turnpike adding auto maintenance and service area of about 8,095 feet. We have filed with you of course all of the plans but there was omitted from those plans a location of the sign. So I would like to file these I have three copies plus twelve. We discussed at our meeting also parking of the cars on the roof of the addition and there were some concerns on screening the architects prepared plans we got them a couple of days ago. The architects are showing a two story building for the rest of the structure which it is not. It is a small area in the front that is a second story but they show a building that's two stories I did not want to file that with the commission being inaccurate they are going to change before the public hearing we will file the corrected elevations. I will say these plans a wall screened the cars five feet eight inches high all the way around which will either be exterior foam insulation system or a split base block. It will be white and blend in the building you will not be able to see the cars. We are hopeful the discretion is used to set up the public hearing

date that it can be earlier than later hopefully in the May meeting. I will make that request to the commission if it seriously considers. Kurt Smith is here he just briefly show the final changes on the plan.

Kurt Smith - Smith and Company

We provided the land surveying and civil engineering for this project. I think most of you were here last month so I won't repeat. I do want to point out that the parking on the roof of the proposed addition would now be shielded by a five foot eight inch parapet around it that has been added that was some of our discussion. In discussing with the architect not to add potted plants that would another option. We felt be a perpetual maintenance problem with the potted plants we would have to provide water to them in addition to the fact they would take away from the parking spaces that are on top. There are thirty parking spaces proposed up on top and the ramp on the South side. One more change Mr. Masayda pointed out correctly the parking in the front of the building the display area is presently being used on state property without a lease and the plans have been changed so that the buffer area the grass area extends back to the street line to the highway and the display area for cars being concrete then would behind that. So that has been changed. Other than that we have added drainage, retention it is before the state to look at the drainage. Zero increase in peak runoff hundred year storms all the things you usually see. Their lighting, discussed that last time landscaping so forth five foot buffer around all the standard things that the site plan requires. So I will leave it at that. If there are any questions I will be happy to answer them.

Dupliese: There is a building on the side I'm not looking at this properly here but on that side of the building you are taking down a section? Correct.

Smith: Yes that correct.

Dupliese: The loading dock that you have there now.

Smith: The loading dock will be taken off the reason is for that is that we want circulation around the building.

Dupliese: Any you are going to have a retaining wall of some sort on that side?
Correct

Smith: That correct.

Dupliese: And how high is that at the highest point?

Smith: Two feet here escalating to the highest point here to about fourteen feet just in the back of the building and then it tapers down and comes down about two feet here as well.

Dupliese: And there is guard rails along the whole line? Correct.

Smith: Yes.

Minnich: Any other comments? Our roll this evening is to consider accepting this application for review and establishing a hearing for public review at the chairman's discretion. Is there any further discussion?

Text of Motion: Accept special permit #243 for review and schedule a public hearing at the Chairman's discretion.

Motion made by: R. Russ

Seconded by: C. Mancini

Aye: 7 Nay: 0

g.	Applicant:	Walnut Grove Farm
	Agent:	Emily Jones, Civil One
	Re:	Special Permit #238 for activity In a 100 year flood plain
	At:	Bunker Hill Road and Sandbank Road, Watertown
	Zone:	R-70

Minnich: Our ultimate purpose is to determine that this is not an issue that we need to consider or to have changed me think probably this is one that can go along with the approval of the application. We don't necessarily need to do it this evening. I don't know what anyone else has to discuss this issue for the hundred flood plain.

Rondeau: What are we doing about the consideration of the extending that road?

Minnich: I thought that was in the next one.

Mulcahy: That is in the continued public hearing.

Minnich: If you are looking at it differently. And I will be happy to understand that I was looking at the road as being h the next item on the agenda.

Dupliese: There is g and h.

Masayda: Again g will have an affect on h because the road does go into flood plain which will affect that.

- Rondeau: Yes, that was what I going to ask in terms of being able to accept the road part. Are we going to have to go back to Wetlands and in their actual application the application never actually had that road going all the way through?
- Dupliese: The original application to Wetlands did have the road going through. And it was brought back and put to the cull de sac and it was approved for as a cull de sac. So now we are going to ask them to go through if I remember correctly it wasn't a lot just the actual road itself and the little side an extra minimum of 600 to 800 hundred square feet for the actual crossing of that little piece of wetlands but at that point though it does not affect the rain gardens. The rain gardens are picking it up and its ends up to be the same amount of water that goes to it to the rain garden.
- Rondeau: I don't doubt any of that. My question was can we actually vote on it or approve it without having a wetlands approval already.
- Masayda: That was my question. I feel that if we are going through the road we should table that until we can do all these at once. Putting the road in may affect the location of the rain garden.
- Dupliese: Actually, I think if they have to go back they will have to go back to Wetlands won't they? They will have to go back to Wetlands for approval to change it before it can come back to us.
- Masayda: My recommendation would be based on the testimony tonight and today with the discussions I feel that in looking at the contour plan and connectivity and circulation that the road should be connected to Sandbank Road.
- Minnich: Well that leave us where we might end up but I initially here at the beginning of the conversation share a different view. And that is we talked about this and we said we took consensus vote that Sandbank Road was obviously on the exterior of our town the road itself is in poor condition it was not necessarily any road that people would be going on to get to or from this site. The only thing that is changed since this time and last time is the Director of Public Works who it feels that it ought to be a through road.
- Masayda: For future development also again we have been seeing massive amount of future development with subdivisions and there is a lot of property with Sandbank Road that could eventually be developed and the connectivity would be one of the decision of the Public Works of future developments. Why they chose it should be connected at this point.

- Minnich: Well we need to vote on this again in terms giving direction. I share the view I took all that in consideration that last time in terms of what future development in our town there is nothing beyond Sandbank Road it is the next town over so I still where I was before on not needing that to be a through road.
- Martin: What if I said that I would like to do we have time for me to take another look at this?
- Mulcahy: We are going to continue the public hearing next week.
- Martin: I like to see that road I don't have enough clarity in my head as to where this road is.
- Rondeau: I was in total agreement with you Dave on this whole process when originally voted on it. But since that point in time and after listening to this something did come up that I thought I might want to share. If Sandbank road is constantly getting flooded overtaken by water from those fields. There are three houses and another going in if you are to go up that I thought that might be another access for people to get to and from their houses. If the road further down is getting continuously getting washed out or maybe there is water going through there and people get home and now they have another alternative to get to their home that they didn't have before. Because of that and because of the fact for whatever the reason town engineer feels that is necessary I think it is definitely something we should reconsider.
- Minnich: Do we want to do this evening or do we want table this and do an individual site visit.
- Masayda: I am comfortable at this point here to give them direction to extend it.
- George: I would like to speak on that. What he is talking about extending on Sandbank Road is the area that is bad and so there are floods. We as a commission tonight I didn't have the vote on it decided not to extend. We talked about circulation we just turned one down. Said we don't have to build because it will give better circulation to the subdivision and now we are going to do this out in this no man's land come on guys.
- Minnich: Is there anybody else who has a comment? I would like to come to some conclusion on this evening on this maybe we ought to start from there.
- Mancini: Well I remember the last time we discussed when Emily was there and we took a consensus that if you have the road opened up to Sandbank Road would people actually travel down the Sandbank Road to get out to go to Watertown. Like everybody said that knows that area said no way there is

no way that you would want to go to Sandbank Road and then go to Middlebury Road and then go to Watertown. You would go from your house out to Bunker Hill and go to Watertown. There is no real reason to open that road all the way to Sandbank Road. That's the consensus of the commission we will have to talk about it.

Masayda: Could we have Chuck's reason why the Department Works decided to do this.

Berger: We had a pretty good discussion about it but it was traffic circulation and it was providing access to the homes that do get flooded an additional way out for them along Sandbank Road. One comment that was said by Mr. Cavanaugh any traffic we can get off of Bunker Hill Road is a good thing.

Minnich: Are we ready to do it this evening. I guess we are ready to do this evening then does somebody want to make a motion.

Masayda: I make a motion to have the applicant provide a connection between Bunker Hill Road and Sandbank Road.

Strub: I don't think you can make this on a public hearing.

Minnich: This is not a public hearing.

Strub: But the public hearing on this application is over. I don't think you can make a recommendation on that. I think all of this in appropriate.

Minnich: Your point is well taken. We won't make a decision but we will make a recommendation to the staff so why don't you go from there. Mike

Masayda: I like to make a recommendation to staff that they investigate having the applicant provide a connection between Bunker Hill Road and Sandbank Road with the new proposed roadway for what was discussed this evening. One of the options for the proposed road.

Minnich: That's Mike's motion is there a second.

Dupliese: Second.

Minnich: Is there any further discussion?

Strub: I think that's the same motion. For the record of what is an open public hearing. I mean we can consider it. I thought that what we talked about earlier. Mr. Jones let us know the reasons you would discuss the reasons later and now the motion concludes that that's the option not considered one of the options. It's the same way with different words.

Minnich: No I think my understanding your objection the first time is it started out it was the recommendation to staff so we asking and taking a vote here as to whether we are going to ask staff to look into this further vs. if we deny it and if we don't do we are not going to ask staff to do it. That's all that it is and it doesn't do anything more. And your point is taken we can't go much further than that.

Strub: The staff recommendation period not with a conclusion attached to it.

Minnich: Not with a conclusion attached to it.

Masayda: Even what we said what we wanted you can come back he could back with anything he wanted.

Minnich: The public hearing is open to make a conclusion on this but we can direct staff.

Minnich: I think we understand the motion. Is there a second.

Russ: Going to Bunker Hill Road on the new road and beyond the cull de sac. I believe to Sandbank the grade might be to steep.

Masayda: The plans show it relatively flat if you look at your plans.

Martin: I drove down Sandbank Road and everything to the left goes down the bank.

Masayda: Again if you look at the contour on the plan the contour goes pretty much parallel with the road so that means it would be relatively flat.

Minnich: The motion is to ask to request staff to review this issue and Mike the motion formally. Carol please call the roll.

Masayda: It's pretty sad. This is like we have staff and over the past several issues that have come up we have never taken the recommendation. They are supposed to be the experts in our town to suggest what is good and what is not. We have a commission here that some people are familiar with the area some people are not familiar with the area and I feel some of our decisions should be based on what they recommend to us. But it is not.

Text of Motion: Request staff to review the issue of having the applicant provides a connection between Bunker Hill Road and Sandbank Road for the new proposed roadway

Motion made by: M. Masayda

Seconded by: G. Dupliese

Aye: 3 M. Masayda, G. Martin, G. Dupliese
Nay: 4 D. Minnich, R. Russ, C. Mancini, J. Blais

On a vote of 3 in favor, 4 opposed, the motion is denied and not approved – the Commission is not requesting staff to do any further review on this matter.

h. Applicant: Walnut Grove Farm
Agent: Emily Jones, Civil One
Re: 22 lot subdivision to be known as Southridge Estates
At: Bunker Hill Road/Sandbank Road, Watertown
Zone: R-70

Minnich: Is there a motion to table? Is there any further discussion? All those in favor please I. All those opposed say no. Motion carries.

Text of Motion: Table
Motion made by: G. Dupliese
Seconded by: G. Martin
Aye: 7 Nay: 0

i. Applicant: Cherry Avenue, LLC
Agent: Compass Engineering
Re: 3 lot subdivision to be Known as Cherry Avenue Estates
At: Cherry Avenue, Watertown
Zone: R-12.5

David Rhode Compass Engineering Watertown –

Good evening. I was here last year to get a consensus from the commission on a combined driveway in R12.5 zone. At that time the commission voted 6 to 1 against the combined driveway in the zone. And last year between attorneys talking amongst them, town attorney for the Wetlands Commissions and class attorney said to re apply to Wetlands again and re applied to Wetlands again showing three driveways for each lot. Again they have basically said they are not going to unofficially not going to approve. And they have gotten northwest conservation service to write a letter recommending that it is feasible and a prudent alternative to constructing a driveway in the regulated area. So we have submitted an application formally now to get this issue resolved once and for all. Basically it a four an half acre site having 3 lots no roads, no drainage,

other than dry wells or infiltrators for the roof run offs and foundation drains. We our proposing conservation easement over this whole section of the property plus this section of the property over here in lieu of open space. The lots are medium space 12,600, the other two one is over two acres and the other one is an acre and half. Look at the driveway profile which is more enlarging of the area this is the smaller lot, this is the larger lot 2 acre lot, and this is 1.4 acre lot. You come in here and you would split off most of the grades from here to lot 3 would be 3% up or down. A little less than 7% going up to the house and flattening off up the house area by 3%. Basically we would like to have a consensus as to whether you would entertain the thought of having a combined driveway in this zone. Even though its not stated you can have a combined driveway but not state you can't one either. It is kind of a catch 22.

Minnich: I understand. I thought we had a consensus but then I understand it went back to Wetlands and some things happened there. The dilemma you place us in the same one as the last scenario. You present us with the formal application so you are asking us to make a determination as you just heard a few minutes ago. We are not allowed to make a determination on any other than direct staff to do something while the public hearing is open. Until a public hearing is closed is the correct way to put that. So our actions this evening because you made a application is to consider to accept your application for review and establishing a public hearing the question to which you have will get all through that process. The alternative to that which your desire how important this is to withdraw your application.

Rhode: If is going forward.

Minnich: Okay then fine then ruling we cannot answer the question until the public hearing is closed.

Rondeau: We can give him any personal feedback.

Minnich: Yes you may make a comment on it and others may but you asked for a consensus on it that we cannot give you. Not at a formal application. Because we are not allowed to make a ruling on any issue until the hearing is closed.

Rondeau: Maybe I am misunderstanding. I don't think he was asking for formal ruling. I think he was asking for what do you guys think?

Minnich: He asked for a consensus that cannot be done but you can make comments and anyone else and he can take all those comments to whatever he wants but no consensus of the commission which what he is asking for is what we cannot give him.

Rhode: Right now we are in middle of a public hearing Wetlands on this issue and we have submitted this alternative to them because it was approved last year. They approved that common driveway for two lots.

Minnich: I understand. And you also have a lawsuit before the town on this issue.

Rhode: Right.

Minnich: And so, you are suing us. You have every right to get an application I just urge the members of the commission that given the fact that there is a lawsuit on this issue. The fact that it is not going to in to Wetlands lets take this through its very strict legal process here any have a public hearing and talk about this and the issue of consensus is getting us in trouble.

Rondeau: Tell me why I'm sure you have already told somebody you are not accessing lots 2 and 3 off Old Army Road.

Rhode: Cost prohibited because we will not be able to construct on Old Army Road because you don't have easement on those properties budding Lockwood Drive for grading. Plus the intersection where it comes out onto Cherry Avenue would be a very dangerous intersection to the site distances.

Minnich: Okay are we all set on considering a motion to accept this application for review and establishing a public hearing at the discretion of the chairman? Is there such a motion? Is there a second? Is there any further discussion? All those in favor please say I. All those opposed no. Motion carries.

Rhode: You will let me know when the public hearing is.

Minnich: First meeting Wednesday in May whatever the date is. May 7th.

Text of Motion: Accept application for review and schedule a public hearing at the Chairman's discretion

Motion made by: G. Martin

Seconded by: G. Dupliese

Aye: 7 Nay: 0

j. Applicant: Town of Watertown
Public Works Dept.
Re: 250 gallon propane tank
At: Burton Street, Watertown
Zone: R-10F

Minnich: This does not require a public hearing so we can this is a permitted use in the fire district. Imagine that it's a permitted use we had in weeks.

Berger: Representing the town of Public Works before you tonight. For a site plan and special permit application to install a 250 gallon propane tank up at the highway garage on Burton Street. Burton Street is out here, the highway building is here, our truck wash pad is over here and the chloride tank for the sanding and salting trucks is in here. We are proposing to tuck the propane tank in behind this concrete wall and installing another protective concrete wall in front of it. Run a line around into the building for a steam cleaner.

Minnich: Okay is there any questions for members of the commission?

Martin: Will it be visible from the ground.

Berger: No.

Blais: What is a steam cleaner?

Berger: Washing truck and parts I would assume. There is an oil and water separator on the back side here from a truck washing pad.

Blais: Do you have approval from the fire chief.

Berger: I don't know the answer to that one.

Blais: I do think you should get it.

Berger: We will do that and I know that it will be installed not by our crews but by the gas company.

Dupliese: I don't think you need approval from the fire chief.

Mulcahy: I think I actually did receive that today. Printed it out.

Minnich: Before you are a draft motion for approval is there anyone would like to change on it.

Mancini: Like Jim said that contingent upon approval of the fire chief.

Minnich: We can't make our approval upon anybody that's not lawful. Our approval can't be contingent upon anyone else any other commission or any person.

Why do I have to make so many rulings tonight? Are you ready to approve this? Let me read the motion then is there any further you want to say incase we deny and you want to bring us to court. Okay.

Text of Motion: Approve

Motion made by: R. Russ

Seconded by: G. Dupliese

Aye: 6 D. Minnich, M. Masayda, R. Russ, G. Martin, C. Mancini,
G. Dupliese,

Nay: 1 – J. Blais

WHEREAS, the Watertown Planning and Zoning Commission (hereafter “Commission”) received a Site Plan application on April 2, 2008 for a 250 gallon propane tank to be located on Burton Street, Watertown, CT in an R-10 F Residence District on 2.3 acres of land owned by the Town of Watertown, 424 Main Street, Watertown, CT; said property is commonly known as the Town of Watertown Highway Garage. The application includes a Site Drainage Map dated April 1998 with a final revision date of March 2008 prepared by the Town of Watertown Department of Public Works; and

WHEREAS, the Commission heard the application on April 2, 2008;

NOW THEREFORE BE IT RESOLVED that the Watertown Planning and Zoning Commission **APPROVES** the Site Plan application for a 250 gallon propane tank located on Burton Street in an R-10F Residence District with the following conditions:

1. The final A-2 survey Site Plan map showing the location of the tank shall include a signature block for the Commission Chairman and a signed Mylar copy shall be filed by the applicant on the Town of Watertown Land Records.

In accordance with Section 8-3(i) of the Connecticut General Statutes, all work in connection with this Site Development Plan shall be completed within five years after approval of the plan. Said five year period shall expire on April 2, 2013.

Minnich: Will somebody make that motion? Is there a second? Is there any further discussion? All those in favor say I. All those opposed say no. The motion is approved.

8. Old Business

a. Status of Baillie Company site restoration

Minnich: Attorney Yoreo how are you?

Attorney Yoreo -Yoreo Law Group –

I am here on behalf of the Baillie Company. We are here again about Zero Frost Bridge Road. As a point of clarification from the last meeting when we gave a status report there were some questions by Ms. Mulcahy tender of the final 5,000 dollars payment for Baillie for ease and expenses of the road for the town. Ms. Mulcahy is able to verify that with the town attorney that it was in fact paid in I believe the date was in early January.

Mulcahy: I received fax this afternoon the last thing Carol did you make copies of that from Franklin sent me a fax today.

Yoreo: And the second question is raised is the final mylars actually filed by our engineer shortly after the meeting. Within a week or so time they were filed with the town zoning department. We are here this evening between the last status conference and this one we had meeting with Environmental Protection concerning a second notice of violation which related to solid waste that was on the site. You recall when we presented the site for mediation plans there were some questions between third party reviews. LEP and those that were in communication with DEP as to some solid waste permit might need to be an issue. We answered NOV by going up to the DEP for a meeting and bring them up to speed on essentially where our mediation plan was there are two permits from the DEP that are required one is SKEL permit, the second permit storm water permit or a general permit and those two permits were contingency of our approval for site and remediation work. That became a large part of our discussion at DEP a few weeks ago and our main concern the SKEL permit takes quite a bit of time because of the process in the DEP for issuance and that can really hold up our remediation plan. The other parts of our discussion related what we need to do about solid waste and what we type of permit if any was required. The conclusion we reach in that meeting was no solid waste permit was required because there is no solid waste that is being disposed of on the site. We are processing some material to be used as clean fill on the site and its permissible fill. We will be submitting a protocol to DEP for the use of that. The rest of the solid waste just gets disposed off site. So if you will just for a moment considers the solid waste that is on the site that has to be disposed of in two categories. There is solid waste that is just solid waste and then there is solid waste that needs to be processed from clean fill. What we are tonight and this was part of the discussion with DEP why can't we remove the surface solid

waste that is non processed solid waste. If that makes sense that being the tires there some other wood debris that excavated from the ground. It is just organic material a Watertown drive in buries site material. Things do not need to be processed in some measure on the site it just waste. So what we are here to do tonight is to ask for a special condition of the permit to allow to begin removal of the surface solid waste understanding and representing to the commission that we have not yet received the permits for the storm order permit or the SKEL permit those are in process in the DEP all the materials have been submitted to the agency for issuance permits but they have not issued the permit yet.

Minnich: Is there any questions or comments from members of the commission?

Blais: How do we know that some of the solid waste is not contaminated?

Yoreo: Waste that would have to be disposed of properly. I don't think it matters whether it is contaminated because of the site there is going to be a ground water survey that is going to be conducted at the site. All the material that is processed on the site and sorted gets tested in certain aliquots with respect to the mediation plan. So what we are taken off site doesn't necessarily matter because it doesn't contaminate the site and if it did while it was in the ground I think we expected to be something to turn up in the ground water survey.

Blais: If it's contaminated and taken off the site you are not decontaminating wherever you put it right?

Yoreo: Well, it would depend of the recipient of the material is and what DEP said is disposed of proper manner.

Blais: Does DEP monitor anything taken off the site?

Yoreo: What they have told us to do is to provide the carding receipts showing where it has been disposed of and what was disposed of and who the recipient of it was and forgive me if I misstate this I believe it's the recipient responsibility at that point to say where it goes and what type of material it is.

George: We will get copies of this?

Yoreo: I believe that was the contingency of our mediation plan that we show what we were doing with the material.

George: I just wanted you to tell us that. I know what is in there.

Yoreo: Yes, anything that is in the permit is a condition we would comply with sir.

Dupliese: In this letter it says in our meeting the department requests that Baillie commits removal of all surface solid waste at the site and properly dispose of it now when you say in this letter all surface solid waste can you clarify surface solid waste for me.

Yoreo: As I said just a moment ago, were talking about the materials that are non processed on the site. In other words if you categorized the solid waste on the site there is solid waste that does not get processed it just garbage there is another category of solid waste that is mingled what it would be if it is processed clean fill. In other words if you look at the concrete there some aggregate in the concrete the concrete once it processed and the aggregate is removed the concrete is clean fill what is taken out of it become solid waste. That's not what we asking to remove right now that involve processing on the site. We are asking to take the surface solid waste that does not get processed it is just garbage.

George: All those piles of wood and tires.

Yoreo: Correct.

Dupliese: So the concrete is not solid waste. You are not considering that clean fill.

Yoreo: No, it is not clean fill now it's material to be processed to clean fill pursuant to the mediation plan. In order to process the concrete we have to have the SKEL permit and we have to have a ground water permit. The processing of that concrete puts squarely into encroachment line and that activity we cannot commit to without the permit. But we can do without the permit is to take away all the surface solid waste those are those things that don't need to be processed its just garbage.

Minnich: Okay if I might suggest a motion that we amend the Baillie Company site restoration permit at Zero Frost Bridge Road to approve removal of the surface solid waste at this site that is non processed solid waste and require that the surface solid waste be properly disposed. Is there such a motion? Is there any further discussion?

Dupliese: Yes please, I think in the past what we have done is there notifications that had to be met and that there was third party on site when any work was being now so if we are having this material removed will that still be part of the notification process. That they will notify the representative in that representative will be on site while this material is being removed from the site.

Masayda: If that was requirement from mediation.

Dupliese: That was the requirement and fee that was paid to us in order to have a third party at the site when any of the work was being done.

George: That was when they were going to change this debris into clean fill. They are not doing that. They are just removing the piles garbage that we can visibly see,

Dupliese: I understand but at the same time you have to pardon me but I am going to be blunt okay they brought all this material onto the site without notifying us and I just want to make sure that at this point there not taking stuff out and trucking more stuff in and that's why I want to make sure our third party was on the site while this being done.

George: This was not necessarily brought in. This came out of the ground that was deposited by others. I agree what they are trying to do. I think we should get it off site. Yes we should be notified when they are going to do it. And we could make our inspections if we need to.

Dupliese: I want to make sure no material comes back in.

George: I agree with you 100% we can observe.

Minnich: My own thought is I don't know if notifying them is an my issue at all and that's fine but I'm not understanding why we want if we were are notified we to have a third party review.

George: I didn't say a third party review we may want to pop in and check on it.

Minnich: I have no problems with notification. I have problems with the third party review.

Dupliese: Wasn't it Fuss & O'Neil that we hired to review what was going on and to be on site when this was happening.

Minnich: My understanding was of all that all dealt with the material concrete and things that were brought in. I don't recall us dealing with the tires and wood that is already on site.

Yoreo: That correct. And I concur with Mr. George and Mr. Minnich's position. We have no problems with notification. I think Ms. Mulcahy can attest to the fact that even when we had a realtor out there we were calling to let them know we were just walking the site.

George: You don't go out there without notifying us.

Yoreo: So notification is not an issue but I don't think third party is warranted in this process. We are not doing anything in terms of processing material that's no environmental impact there's nothing that the engineers are going to be surveying this is a matter of removing garbage from the site.

Dupliese: I understand if you at least notify Ruth there are two or three of us that have said that we more than willing to go to the site when there is work to being done so we can observe. And we have that right to go there.

Minnich: Who made the motion? Ron made the motion who seconds it I did. May I suggest for you two that we have a census to this that the town Planning and Zoning office is required to be notified by the Baillie Company prior to any activity. Do you accept this? Is there any further discussion? Carol would you please call the roll for purpose of recording our votes.

Text of Motion: Amend the Baillie Company site restoration permit at 0 Frost Bridge Road to approve removal of the surface solid waste at this site that is non-processed solid waste and require that the surface solid waste be properly disposed. Also, the Town Planning and Zoning Office are to be notified by the Baillie Company prior to any activity.

Motion made by: R. Russ

Seconded by: C. Mancini

Aye: 7 Nay: 0

Mulcahy: Attorney Yoreo I know this in the motion I hope you give me at least a day notice or something so I can call Duane and Glen whoever wants to go because fifteen minutes is not going to be enough time.

9. New Business

a. Review regulation regarding 400' intersection separation distance

Minnich: I'm am glad an hour and a half has past since we last talked about this because I think we have been listening to Don tonight we need to move forward on this. My plan was to present what I had done. As I had said I spent two hours on it I guess I have to sit back and stand up here and volunteer all the time and then you get threatened by lawsuit before you start you kind of wonder, whether you need to invest the time and let some other members do it. But I will step back and say let's go forward with this. The next meeting we have next week it's the only item on the agenda is the issue of the schools and I think we can put this to rest and get this accomplished in terms of a end product. And so I am suggesting we table this item until next Wednesday.

Blais: Are you happy with this Mr. Masi?

Russ: I have just one question? I think a lot of what's going to happen here is going to stem on the fact if the traffic light goes on at the end of the high school driveway on French Street. One of the safety issues in town is so simple on Bunker Hill over by Bryar Road there was just a real serious accident because of site distance. The first car decided to make a left hand turn and coming from Woodbury going towards Watertown was coming over a rise and saw the car making a left turn went to the other side of the road and had a head on collision with the car coming. These are the kind of instances that we have take into consideration every time that we put a project out there it is very important. I know for a fact after working with the town for 26 years on French Street that fifty miles an hour is not an on seen thing going from over the top of the hill by the high school driveway and down that hill and I would want to be making the turn in or out of the project with someone coming that fast.

Minnich: I agree and what the issue is for French Street is going to comment at a later date this really looked at it as to what do we wish to do to change the regulations and I think we are pretty settled and providing a waiver. And so I only make the comment I think this is a general conversation in terms of the subdivision regulations and the zoning regulations and not the directly.

Russ: Some of the highway distances are regulated by whether there is a traffic signal within a certain distance of that intersection as well.

Masayda: This subdivision met the intersection site distance requirements but it didn't on the intersection distance. So I don't know what you are referring to relative to this. Spacing development meets all the site distance requirements. What the discussion is for is the four hundred feet the distance between intersections not site distances.

Russ: But that is also controlled by whether there is a traffic signal within distance of that.

Minnich: This topic was three issues that we are dealing with. One is the grading issue at the intersections. Two is the distances from intersections. And three is the site line. The intersection distances is a subdivision regulation the other two are zoning regulations. We are talking about all three at this point.

Masayda: I did not see grading intersections in this proposal.

Minnich: But this is what this is all about.

Masayda: The only thing I was confused on was the by reading at the end here I didn't get all the way to the end was that you are you suggesting that intersections distances be based on intersection site distance.

Berger: That is an objection what Mr. Cavanaugh putting forward as a starting point.

Dupliese: Which one is this now?

Berger: The very last paragraph.

Masayda: That would appear to be in my opinion excessive because I believe in the state manual says four hundred feet preferably and that's even on roads 50 miles an hour. And you do that on a local road and especially on conditions where 25 miles an hour is our speed limit on roads here and four hundred feet or greater than four hundred feet based on intersection site distance would seem not practical thing for a local roadway network.

Mancini: I'm the one that brought up the four hundred feet to start with when this first came about. I said that was the regulation and that is what I want to go by and then Mr. Masi asked us as a commission to sit down and talk about and see if we can either waive or come up to a with a different number or whatever. Because either he can meet the four hundred feet for the intersection and he can't meet the site line or he can meet the site line but he can't meet the four hundred feet and Chuck Berger came up and said something that if he had to waive on one or the other he didn't want to waive on the site lines. He would probably would want to go on waive the four hundred feet to a lower number or whatever and I would like to make mention on the accident that Ron said. Ron said Bryar Wood Road or whatever. Bell Meadow Drive is where the accident was and I saw it and I was there. It was a horrific accident and so right off the bat I there's no way I am changing my mind as far as site lines are concerned. Site lines are a necessity they have to be there and then when we get this letter from Mr. Cavanaugh talking about ISD's the intersection site distances and then he references French Hill Estates indicates the measure at 85% is 43 miles a hour down and 40 miles an hour up and it is saying here the site line should be a value four hundred and seventy eight feet not even four hundred feet. And above on the top page is says in general all new intersections should be preferably be at least four hundred feet apart. It raises a lot of doubt in my mind I mean I know we gotten the regulations from other towns some had 0 for the intersection, some had two hundred, three hundred, and some were at four hundred however at four hundred right now for safety reasons after I saw that accident on Bell Meadow and that's the intersection going on to Bunker Hill and went and got all the minutes for meetings for when Bell Meadow was made developed and I see Mr. Tedesco went beyond what he had to do for a site line. He lowered

the road two and half feet. He didn't even have to lower the road to make it even safer than what it should have been he lowered the road two and half feet. I go up there and turning into that road and I have to almost stop to get into that road. It meets the site line. It meets everything. It so dangerous cars are blowing the horn at me in the back when I am slowing down. There are times I almost got hit Joe I have to say that I will be front up with you know as I said before that if it didn't meet the site lines and regulations that I would vote against this. My opinion is that when I saw that accident last Saturday I said I got to find out more about this. I am not and I did I am not going to rule that we should change the intersection regulations.

Masayda: I think you are mixing up two different things here. There is intersection site distance and stopping site distance. And I think you just explained the accident was a stopping site distance issue not an intersection site distance issue. There is a different criteria is there. And what is going on with the Masi subdivision they meet intersection site distance and also stopping site distance.

Mancini: No they don't meet it. They don't meet the regulations for the intersection and the site lines. They meet one or the other.

Masayda: The accident you are referring to stopping site distance problem.

Mancini: We are going to debate this again its midnight may I suggest we table this until next Tuesday.

Masayda: I just want to bring up my point that because I will not be able to make the next meeting.

Rondeau: You are quoting this accident you don't what caused this accident.

Mancini: Oh I know what caused this accident.

Rondeau: She could have been on the telephone. She dropped a cigarette went down to pick it up. I have investigated hundred of accidents in terms of what you saw you do not know what caused that accident.

Masayda: When that subdivision came forward that you are talking about is that the intersection site distance did not meet stop and site distance issues that is totally different than issue that is on. You are mixing up two different things criteria's that you used in order to design a road or an intersection.

Mancini: Your right Mike but what I am trying to say is that I am not going to error on safety on any way.

Masayda: The only other issue that I wanted to talk about how they came with distances between intersections based on intersection site distance when you get situations like in this situation where you have a cull de sac road both line traffic and where you don't have to worry about cueing from intersection to intersection. That why would you want to get something that could be four hundred and eight five feet between intersections when the Ashtel manual which is the bible of road design which has no guidance on intersection spacing and read the highway manual which states and quotes in general all intersections should preferably be at least (inaudible) feet. And we are here proposal to go with the intersection site distance could go with could be way in far to exceed four hundred feet. It just a question I bring up.

Minnich: Is there a motion to table. You are welcome to talk.

Rondeau: I actually a couple of things. First of all I want to know Mr. Masi is being penalized under this process because the observed speed limits were 45 or 48 whatever they were at the traffic site and the road is posted at 25 miles an hour and I think if people were actually going opposed to the speed limit the site lines required and so on and so forth would be then reduced accordingly. It's obviously computed based somewhat on speed.

Minnich: It's based on the actual speed the people are going. Not on the posted speed.

Rondeau: That's the point I am making because we thought this was not necessarily doing what they should do to maintain proper speed in the town. And people are going much faster on that road than they should be penalized. If that project were on another road where people going and people were actually going 25 miles an hour posted none of this would be an issue. So I think it precludes everybody especially if the road where the school is and stuff , especially where the high school doing the renovations that they are doing that needs to be done to slow traffic down on that road. Obviously if that light gets put in that may change things accordingly. Now the other thing that I wanted mention is that I think we would be getting ourselves into a spider's web if we start waiving issues if we are going to be voting on waiving or making exceptions to regulations that we have. I think we are much better off if it's appropriate to change a regulation and make that be the case for everybody all the time. But if we make a waiver for one person and everybody is going to be coming in and saying well you made a waiver just like everybody does now. We are leaving ourselves open for time after time people asking for waiver after waiver.

Minnich: Is there a motion to table.

Mancini: I make a motion to vote on this.

Minnich: What are we voting on?

Mancini: If we are going to change the four hundred feet or not.

Minnich: I thought the issue we were going to discuss this at meeting next where all the details are involved. And table it for the rest of the night.

Mancini: Alright I'll make a motion to discuss it then.

Minnich: You want to discuss it then. All those in favor say I. All those to adjourn?
All those in favor please say I.

Text of Motion: Table to the April 9, 2008 meeting

Motion made by: C. Mancini

Seconded by: G. Dupliese

Aye: 7 Nay: 0

12. Adjournment

Text of Motion: Adjourn at 12:00AM (Midnight)

Motion made by: G. Dupliese

Seconded by: R. Russ

Aye: 7 Nay: 0

Michael Masayda _____
Secretary