



Town of Burlington

**PLANNING AND ZONING COMMISSION
MINUTES OF REGULAR MEETING
SEPTEMBER 14, 2017
BURLINGTON TOWN HALL**

PRESENT: Richard Miller-Chair, Robert Wilson, Tom Zabel, JP Parente, Rudy Franciamore, Michael D'Amato, and John Hebert.
Abby Conroy, ZEO, Lisa Ozaki, Recording Secretary.

1. CALL TO ORDER:

A. Attendance and Designation of Alternates

Chairman Miller called the meeting to order at 7:01pm. Regular members present were seated for the meeting. Alternates will be assigned on each application, as needed.

B. Approval of Minutes

MOTION Parente, seconded Wilson to approve the minutes from the August 24, 2017 regular meeting as submitted; unanimously approved.

C. Communications:

A. The Farmington River Watershed Association.

3. NEW APPLICATIONS/NEW BUSINESS:

A. SB922 – Public Act # 17-155

4. PENDING APPLICATIONS:

A. None

5. PUBLIC HEARING(S):

A. **Application #2118** – Northwest Asset Management, LLC – Special Use – 25 Unit Multi Family Townhouse Rental – Covey Road #29 (Submitted July 7, 2017) (Public Hearing August 10, 2017)

Miller recused himself from meeting since did business with Bryant and owns land in Central Business zone. Miller doesn't feel he has conflict of interest, but Wilson will chair the public hearing.

MOTION: Zabel, seconded Parente to close the regular meeting and open the public hearing at 7:02pm; unanimously approved.

Gerry Bryant, applicant present and addressed the commission. WMC letter dated September 7, 2017 read into record and Bryant addressed those comments in new plans submitted. Martin J. Connor letter dated September 10, 2017. Conroy explains Milone and MacBroom traffic study dated September 7, 2017 to commission. WMC has also received the traffic study and are fine



Town of Burlington

with it.

Ryan McEvoy, engineer for Milone & MacBroom for applicant spoke of the changes to commission. Revised landscaping plan submitted into record. Width of road has been changed to 22'. Private fence on corner of property to north. Drainage plan with additional capacity and storage of 16 drywalls instead of 10. Decreasing runoff in the case of a 25-year storm. Septic for Building 4 was reviewed again by BBHD. Water service line has been changed.

Atty. Tim Hollister, attorney for Bryant addressed the Commission. Submitted a copy of potential conditions of approval for the tree service abutting the north side of property. Noise impact has been a proposed condition into lease of condos. Hollister reads condition into record. The owner of the tree service has received a copy to review also. Pedestrian easement was added on the western side of the property. Meadowbrook agrees to work with Town of Burlington to evaluate in the future and could be developed with special permit conditions. Submitted copies into record.

Hebert, anytime we take away from the commercial, we should be preserving commercial. POCD from 2009 shows roughly 60 acres of commercial and there is not a lot left. I am concerned we are taking away from commercial activity. POCD discusses the benefits of residential, but to encourage mixed use with commercial development.

Bryant responds to Hebert, POCD does talk a lot about central business development. One of the needs is to introduce residential options in the Central Business Zone to support commercial uses. Commercial development not economically feasible right now in town; Not enough people in the center of town. If we ever want to have commercial in town, we need to get people living downtown.

D'Amato, existing tree line to north staying? Bryant responded yes and submitted 3 pictures into record of trees existing tree line to be preserved. Road will be 6' lower than tree line with fence near berm that goes down.

Dahle, I don't believe the bank will stop the noise. Chainsaw noise will not be stopped like that. Not a lot of businesses left in town. Harris will be the only one to develop library line. Site development has a standard minimum distance between buildings shall be 50' but not less than 35'. At previous meetings commission members have mentioned their concerns and Bryant hasn't even attempted to change any distance between the buildings even though this has been brought up twice already. Wants a waiver for standard regulation. Why are we going any farther since you haven't changed anything for us? Research right now, shows 249 people per square mile to be rural. It took Burlington 250 years to get rural. To get to a density of 1000 it will take 750 years and we don't have the time for that to happen.

Bryant responds this is accurate. We don't exactly meet the requirements of that section of the regulations. In 2006, P & Z came up with new regulations and put a moratorium on building. We built mixed use across from Library Lane. The town asked us to put in sidewalks. Central business overlay was created to work with developers, builders. Appendix B gives incentives for developers to get waivers. Does it really matter? No. This Town has to spend a lot of money



Town of Burlington

for Central Business development. Asking for minor waivers for our application for side yard could matter to the fire department, but they commented on this application and don't have a problem with it. Town has spent a lot of money on studies for CB zone. If we ever want to have a viable Central business zone, we need residential there first; Need more people.

Parente, 35' why? What is the reason? Would removing a unit or shifting building be better so problem goes away? McEvoy, 1st comes to the separation between buildings, building could be up to 35' in height. 2nd our site layoff, would push into this slope south of the building. Could be up to a 3 story building and fire department has already reviewed and no safety concerns. 26' separation is more than appropriate for the distance.

Parente, Could you move a unit and put in another building? Bryant states we could move that building 7 or 8' over. Instead of 6' retaining wall, there would be a 20' retaining wall. We didn't like that. We could take out a unit, but it would make the project less feasible. Especially with the cost of materials increasing due to hurricanes. It would take away from the economic feasibility of the project. We could go 3 stories high, but we didn't think it would fit the community.

Franciamore, North side of the entrance not being used. McEvoy states there is a 10' slope to that side of property.

Buthe, Was the owner of the tree service company included in the lease conditions? Gary Boucher states he likes the lease warning the condos about noise. Fence will help with noise also. Still have tree line on my property, but once fall comes, my property will be exposed. Not sure if it eases my concerns.

Jason Boucher, co-owner of tree service, this requires a special permit and a lot of leeway. Does this mean other people will get the special treatment when we come in for applications too? Is the fence along the whole property line or just cul de sac?

Bryant states fence is just along the cul-de-sac. Special permits are just special permits and can be granted and reviewed.

Zabel, Has the fire department reviewed the south wall of 4 and north wall of 3 for firewalls? Exterior walls? Bryant states no. Zabel any problem to create safety wall for the closer buildings. Will the bus waiting area have an enclosure or just flat service? If you move the buildings it could make your problems go away?

McEvoy states sliding buildings and pushing the 20' close to the roadway is less desirable. States bus area just to be flat, no structure.

Dahle states property line is 3' short. What about the smell of mulch when it's hot; it is going to stink. Chainsaw noise. People have more than 1 sense. Why bother having regulations if we let them do anything.

Parente other buildings have more room for distance, why not move a unit from building 1 or 2 to 5 or 6.

McEvoy explains to Parente too close to other buildings and property lines. Each unit is 28' wide and would be closer together than other buildings.



Town of Burlington

Connor whether this property would be better from commercial use than residential. Commercial would have more traffic than residential. The commission can use the exceptions in Central overlay if they choose. Zabel, lack of commercial in town. If using this property residentially, we are still bringing in tax revenue it will be viable for the town.

Public Comment:

Barbara Wollman, 50 Covey Road. Many empty businesses in town already. No business coming to town. Need to have business before you can get people to come. People work outside of Burlington and shop there. Rent might be high, but doesn't mean you bring in good people. Renters don't pay taxes. We pay for children. Why wouldn't they want to come to Burlington? Traffic has still not been addressed. 6:30am on Sunday there is radar. No traffic then. Traffic on Covey Road from Foote Recreation, Camp Shadee and buses all summer long. We don't need any more cars coming on Covey Road. Water company log trucks go down Covey Road. Covey Road is used as main detour for center. Clearwater Creek development traffic with more development and houses to come. Not against business coming to town, but self-storage would be ideal for this property. No additional cost to taxpayers for recreation or children. Concerned with live, work and travel on Covey Road daily. We don't need more expenses in this town, but need more business to lower our taxes. This development poses a public safety concern. Thank you for listening to my concerns and I didn't hear any solutions from the applicant about the cemetery concerns. Highway department spends more time on the rec center fields than the roadways. Taxes going to the school and not looking out for the good of the people. Bryant responded to Wollman. Hearthstone generated 2 to 3 kids per year. We have rented for 3 years and pretty much that's how many kids there are. Based on a similar development, Meadowbrook will generate roughly 5 kids. Based on Hearthstone we pay over \$65,000 in taxes a year and Meadowbrook will be about \$100,000.

Bob LaRoche, 267 Spielman Hwy. Lived here for 17 years. Needed to find an apartment in this town. Neighbor is the Library Director. I believe this town needs apartments. Got to have the people to have Central business development.

Paul Leibowitz, 234 Spielman Hwy. Rental units are high quality units. Lived in Hearthstone for 3 ½ years. We love them. Neighbors are excellent. Very few children. We were all children once. Personally, in full support of the apartments. State of Connecticut tax base is more important now than ever.

Sally Larson, 106 Wildcat Road. This property is zoned Central Business not residential and should be used commercially. I don't care who is building. Limited amount of Central Business acreage and we shouldn't give it away. We are going to start putting our local companies out of business. Traffic study is not accurate. School buses coming out of Covey Road that I am sacred for; Impacts the Fire Department, Emergency services and schools. Leases do not guarantee protection. Nothing is guaranteed forever. I am against this application. Take it to



Town of Burlington

heart.

Jason Boucher, 41 Spielman Hwy and 37 Covey Road. I am not here to say this project should or shouldn't happen. Offsets for the buildings aren't big picture, but more of zoning. In 2006 we asked the town for 4" on our property, but we were denied. 50 new residents will not bring in a lot of revenue for the town. The State is in need. As a Town, we need to gain revenue, not take it. Drainage under Covey Road to Meadowbrook where is that going to impact? McEvoy states site drains towards Covey Road, will not over burden existing drainage. The site is comprised of sand & gravel water is not proposed to flow from site.

Nancy Hubble 32 Pleasant Street. I use to work on the fire department. From firehouse we cannot take a right onto Covey Road with an ambulance. Most of our accidents are near Covey Road. We need every minute to save people.

Kaitlyn Parker, owner of Larson's Garden Center, 26 Covey Road. I am a little apprehensive to speak about this. I don't want to be attacked again since I am a neighbor to Hearthstone. I believe our Town could benefit from more people in town. My business grows every year. I was very sad when the Hearthstone was put in and not Commercial. Over the years we have had problems with his other developments. Rules are not followed. I feel for the businesses around this new property. Living and owning business on Covey Road, it is a horrible intersection with a lot of accidents. Problems with adding traffic. State of CT says nothing is going to happen at the intersection until someone gets killed. Heavy trucks go really fast. A lot of people walk through my property onto Covey Road. Dangerous intersection. Have a problem with residential traffic adding to Covey Road. Have a problem with regulations being waived. It seems that the developers who have been here longer get things that other applicants do not. \$100,000 in taxes isn't a benefit on Fire Department and Town doesn't have the funds. Money doesn't go very far. Storm drain runoff concerns. As a business, I have 2 spots in my lot and I take in water from Covey Road and Route 4. I still have a lot of water. I don't need any more water. Bringing in more business in town and having more residents but in a different area. Apartment people buy different things than residential homeowners.

Ernie Wollman, 50 Covey Road. South side of the cemetery. Put up a fence to stop people from coming up slope. 50' slope that ATVs can climb. Do something to protect it. It should be commercial not residential.

Bryant ATV and dirt bikes? I submitted a picture of the cemetery. Slope of cemetery with vegetation. Tough to get up or down it. Where would we put the fence? How high? Putting a fence at 2 to 1 slope doesn't make sense. Not feasible or reason to do that. If they want to do damage, they are going to drive there.

Dwight Harris, 22 Charolais Way. Curious about the water that will cross Cove, do you have a right to discharge? McEvoy states Town discharge from Covey Road down pipe to east is existing.

Jason Boucher, 41 Spielman Hwy. I agree that a fence on the bottom of the hill for protecting the cemetery and all the way down the north side property would be great. Guys sometimes use



Town of Burlington

the area behind the trucks for rest rooms and there is a need for privacy. Leases could maybe have deed restrictions.

Conroy states letters from 2 residents of Hearthstone in favor. Jennifer Martin from insurance would be happy to have more customers.

MOTION: Zabel, seconded Parente to close to Public hearing at 8:37pm and return to regular meeting. Deliberations continued to the next regularly scheduled meeting, September 28th.

B. Application #2120 – JMA – Resubdivision – NSF – Mountain Top Pass Lot #380 & 381
(Submitted July 26, 2017) (Public Hearing September 14, 2017)

MOTION: Zabel, seconded Parente to close the regular meeting and open the public hearing at 8:00pm; unanimously approved.

Dwight Harris Sr. and Dwight Harris Jr., applicants present and addressed the commission. We have addressed the comments from WMC. New maps were submitted. Lots have frontage on Mountain Top Pass and are located next to DJ's house. BBHD has already approved the lots. Connor letter dated September 10, 2017 read into record. Harris doesn't agree that passive design for 1 or 2 lots should go on the map. Subdivisions are conceptual and final house plans could disregard Passive Solar Design. Though it appears to be a misprint in the regulations, they say the exact opposite of what I believe to be the intent. Why are we getting involved with grading? We show all these things and BBHD has already approved. IWWC approval on September 13, 2017. Wasting applicant, staff, and engineer's time. The Town is paying for the consultant to do what the engineer already did; Waste of money. Planner making the same comments as engineer. Personally, I don't like conditions in an approval. When it comes to easements in the past, we put a note on map that says easement will be added when built. In the field, it's easier to build something and add exact easement language at that time. We have demonstrated an easement to date and intend for it to be there. We would like the flexibility to move that driveway should we choose and I don't think easement has to be a record forever. For example, one person my purchase both lots and the easement would have to be amended again later. I resent the fact that the Town Attorney needs to review the verbiage of the easement. There is nothing in the regulations that stipulate what information should be in an easement. At this stage, there is no need to draw deed unless we sell that land. We are going to sit on this land right now. Why? So, we can borrow on a line of credit. DJ may never build on it. We have substantially demonstrated what is required by the subdivision regulations. The Fire pond already there. There is so much fire protection there; Standing hydrants. Connor states the passive solar regulations is in the State Statutes. When doing a subdivision, they ask the developer to consider it. Do they have enough land for someone to have solar access? Harris, not building the house right now. Lot is cleared.



Town of Burlington

Fire Marshal letter addressed about hydrants and driveway. 40' ROW shared driveway. Conroy spoke with Tim Tharau and he is all set. WMC letter dated September 7, 2017 read into record. Not building houses right now. Passive solar is in the design and on the map. Land given to DJ for his goats. Harris is asking on record, what the bill cost for the town for Town Planner consultant to review? There is a lot of preserve area easement.

Public Comments:

Gary Nicksa, 34 Mountain Top Pass. Town of Burlington hates cul de sac like Sawmill Road, so we are going to put a road through. Town of Farmington bans rear lots for public safety and through roads are important. Love you Dwight, but not in favor of rear lots. 40' ROW should be fine to get vehicles back there. DJ states the technically not rear lots, has frontage on Mountain Top Pass.

MOTION: Zabel, seconded Parente to close to Public hearing at 9:17pm.

MOTION: Wilson and seconded by Zabel to approve application for Resubdivision located at Mountain Top Pass Lot #381 & 380.

IN FAVOR, Miller, Wilson, Zabel, Parente, Franciamore, D'Amato and Hebert.

OPPOSED, none.

ABSTAINED, None.

Permit Granted

- C. **Application #2121** – **JMA** –Resubdivision – NSF Mountain Top Pass Lot #370 (Submitted July 27, 2017) (Public Hearing September 14, 2017)

MOTION: Wilson, seconded Zabel to close the regular meeting and open the public hearing at 9:18pm; unanimously approved.

Dwight Harris Sr., applicant is present and addressed the commission. Dwight Harris Jr. will present this application. DJ shows overall property of Johnnycake Mountain to indicate where the lot is. Located on the corner on Mountain Top Pass and recently approved Sawmill Road Extension. Lot has enough frontage. Room for setbacks. Lot meets all minimum requirements. Have BBHD approval. Fire Protection is in place with hydrant on property. E & S plan on map. Wetlands boundaries are on map. IWWC approval on September 13, 2017. Connor summaries his comments from letter dated September 10, 2017. All comments have been addressed.

Public Comment:

Gary Nicksa, 34 Mountain Top Pass. Where is the curb cut going to be for driveway? Turning out of that driveway onto Mountain Top Pass might be dangerous. DJ responds, driveway might



Town of Burlington

come off Sawmill Road.

MOTION: Parente, seconded by Zabel to approve application for Resubdivision located at Mountain Top Pass Lot #370.

IN FAVOR, Miller, Wilson, Zabel, Parente, Franciamore, D'Amato and Hebert.

OPPOSED, none.

ABSTAINED, None.

Permit Granted

MOTION: Zabel, seconded by Parente to close public hearing at 9:25pm and open regularly scheduled meeting.

6. **OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:**

A. **JMA - Dwight Harris - Informal Discussion – Sawmill Road Cul-de-sac**

Dwight Harris Sr. addressed the commission. Application previously approved by P & Z for site plan through road. Residents of Sawmill Road and Fox Glen felt they were not heard regarding this through way. Bob Coates said I did this without a public hearing just to get away with something. For the last 25 years, all my roads have been a site plan approval with lots later (Warren Glen, Merritt Woods, and Charolais Way). It is hard to design lots without a road in. I designed the Sawmill Road Extension with a curve in it to slow traffic down. I had a meeting with residents about this application after I found out they were upset. From a safety standpoint, it's feasible to connect Sawmill to Johnnycake with a through road. Developer of Sawmill wouldn't have been able to build much of Sawmill and Fox Glen without a temporary cul-de-sac. Residents want what won't affect their life style and not what is for the general good of the public; they are against putting in a through road. We designed Johnnycake for over 1 ½ years before we built. 28 years ago, there was nothing up there but cows and no need to connect it at that time. Now the Town has a park and there are 200 homes on Johnnycake Mountain that have one way out. I can't think of a reason for the road not to be developed. Warren Glen was a shared driveway before it was paved and then I put the road in. I could begin the Sawmill Road Extension in sections starting at Mountain Top Pass and never finish it. It will probably sit for a while and I will just develop the front of Mountain Top Pass. Cows will be on it.

Bob Coates, 10 Sawmill Road. How many lots beyond Mountain Top Pass? 120 lots. There is access to Rock Road and Johnnycake Mountain Road to get out. Not a huge benefit. Johnnycake Mountain is a huge illegal cul-de-sac. Through way to park probably off Rock Road. Merritt Woods is an illegal cul-de-sac. Harris resents that and states that it is a temporary cul-de-sac with an easement to Blueberry Lane dedicated to the Town of Harwinton. Coates states nothing in Site Plan that addresses the construction of road. Anything that addresses the road is in the subdivision regulations. Harris hasn't bonded a road in 25 year. He can build road or bond. Harris has posted E & S Bond. What Coates is saying is not addressing the cul-de-sac



Town of Burlington

issue. Harris was hoping you would bring something to the table, a legitimate reason for the good of the public. Coates states cause we lived here for 27 years. Harris states that is a selfish reason. Harris states that Coates has been the chair for Planning & Zoning and should know better how this works. Johnnycake Mountain Festival Music is once a year and another through way would be great for people to get off the mountain.

John Stiefel, 35 Sawmill Road. I abut the work done on the end of the cul-de-sac and am upset I wasn't notified about the trees being cut on a Saturday. Trees were falling in our yard. For public safety, I think it should be a through road. I would like Johnnycake Mountain Road to also be open to Chippen Hill Road. That would get traffic flowing; People love their short cuts. Harris states the water company owns that land and no developer will do that. It's all ledge. Harris notes some people in Fox Glen did not have it in their deeds that Sawmill was approved as a temporary cul-de-sac. Residents on Sawmill Road whose properties would be affected do have details in their deeds stating that they are living on a temporary cul-de-sac.

Scott O'Leary, 5 Fox Glen. I would prefer that Harris builds the road in stages. Wouldn't it be prudent, since we have time on our side to stop the road at the cul-de-sac? It would give us time to come up with a plan to please everyone, maybe a barrier so no cut through? Harris states he is going to do all the site work now and put cows on it now. I could build a through road and you could petition the Town to put up a barrier. O'Leary states he is on Fox Glen, Harris says you are protected on Fox Glen, why are you concerned with Sawmill Road? Just because you are concerned with your own neighborhood, doesn't mean you are concerned with the good of the general public, the Commission has to be. O'Leary asks, at the end could you add gravel there to slow down traffic if it has to be built? And not put it on maps so no one knows about it? People pay more for living on a cul-de-sac. Harris states profit is not his motive. O'Leary would you consider keeping it private? Harris states 100%, if you guys get together and buy the 2 lots on the end. DJ Harris states that the cut through is for the safety of the residents on Saw Mill Road also. If tree falls at the beginning, this is their only way out.

7. **ZONING OFFICER REPORT:**

Conroy for next meeting, please draft your considerations before we come. Brain storm about it. SB922 needs a public hearing set. Connor explains what Torrington and Goshen is doing with temporary structure. Don't see them as likely to happen. Connor not recommending you opt out of the program. Conroy explains SB922 effective October 1, 2017, new act temporary health care structures. Structure is like a park model RV. Small less than 500' not built on a foundation. A "Grannie Pod" for people in need of medical care that their caregiver lives with them on their property. Separate hook up to septic. Miller states it's stupid! If the Commission has their doubts, we need to set a public hearing to discuss. Hebert attended the meeting at the Council of Government where this act was discussed. A lot of towns didn't even know about it. We could opt to participate. Limited or no application in Connor's opinion. Public Hearing to opt out. Torrington and Goshen are doing nothing. Connor and Conroy debate over the SB922. Board of Selectmen also need to opt out should the Commission decide to.



Town of Burlington

8. **CITIZEN COMMENT:**

None

9. **STAFF/COMMISSION COMMENTS:**

Miller, Zabel, and Buthe not able to attend to next meeting on September 28, 2017.

10. **ADJOURN:**

MOTION Zabel, seconded Franciamore to adjourn the meeting at 10:13pm; unanimously approved.

Respectfully submitted,
Lisa Ozaki
Planning and Zoning Clerk