

WEST WINDSOR PLANNING COMMISSION

Draft Minutes

April 27, 2011

Present: Hal Pyke, Barbara Truex, Elvin Kaplan, Mark Isenberg, Andy and Barbara Wyatt, Martha Harrison

1. Call to Order – Chair Hal Pyke called the meeting to order at 6:30 PM.
2. Changes or Additions – None
3. Public Comment – Andy Wyatt was concerned about Section 4.21 of the Zoning Regulations, which requires fencing around swimming pools. Andy asked the PC to consider changing the regulations to allow automatic pool covers as an alternative to fences and enumerated the safety features of pool covers. Elvin asked about the effect on Andy's insurance of a pool with a cover as opposed to a pool with a fence. Andy said he is currently looking into that. Elvin said that, as a retired pediatrician, he has strong feelings about pools and safety. Hal said the Planning Commission is willing to discuss the Wyatt's request and asked them to keep the PC apprised of what they find out about insurance. Hal said the PC will let the Wyatts know when swimming pools come up for discussion.
4. Mineral Extraction – Hal said the zoning regulations allow the extraction of up to 500 cubic feet per year, which is 18 ½ yards or about three dump truck loads. Martha said the first sentence specifies that the extraction regulation applies to three of the zoning districts. Martha asked what that means for the other districts; is extraction allowed without a permit? Is it not allowed at all? Barbara asked if removing stone would be considered mineral extraction. Hal said yes. Martha said she is also not sure what "removal" means in this context; does it refer to removing minerals from the ground or removing them from the site? Martha noted the large rock piles and the piles of crushed gravel on the Coakley property. They were removed from the ground, Martha said, but not from the property; is that mineral extraction? Barbara said the current use program defines that as a "gravel/stone operation" and it's one of the things you can't do if your property is in current use. Barbara asked if there are any Act 250 regulations on mineral extraction. Martha said she is sure that the talc plant is under Act 250. Hal wondered what the impact would be if the extraction regulations applied to all districts and said he doesn't think it would have much impact. Elvin suggested eliminating the prepositional phrase at the beginning of section 4.6 and starting the paragraph with "Any activities related to mineral extraction..." Those present liked Elvin's suggestion. Barbara said she thinks this section applies to people taking minerals out of the ground and off the property. Elvin asked if it might be necessary to include a definition of mineral extraction. Martha said there is a definition for "mineral resources." Hal said the definition refers to "sand, gravel, talc, or the like." Elvin said he wouldn't want someone doing some significant landscaping, and moving around a lot of earth, to get into trouble. Martha said if they're moving around a lot of earth and there's a slope over 20%, they would have to come to the DRB anyway. **Barbara made a motion to approve the removal of "In the Light Industrial/Commercial, Con-40, and RR-5 districts" from Section 4.6 of the zoning regulations. Elvin seconded the motion, which passed unanimously.**
5. Other Business – Erosion Control: Martha asked if she could voice her concerns about Section 3.5. The Planning Commission agreed. Martha said Section 3.5 requires development of land with a slope over 20% to be "subject to review." Martha said most reviews are either

“conditional use” or “variance” reviews but this section doesn’t specify what type of review is required. Martha also expressed frustration with the use of the word “may” in Section 3.5 and said she thinks it’s not fair to the applicant. Martha said she thinks this section should spell out the conditions under which a plan prepared by a professional engineer would be required and under which conditions it wouldn’t. Elvin said what isn’t addressed is the scale of the project. Martha agreed that it would be helpful to address scale. Mark said it would make sense for the amount of oversight to increase with the slope. Martha said without any guidance up front, the applicant’s plans could be deemed inadequate by the DRB and the applicant might then spend most of the building season obtaining and presenting professionally engineered plans. Barbara said there’s enough expertise on the DRB as it is currently configured for them to put conditions on it. Martha said when the applicant asks what they have to provide, all she can tell them is that they have to provide “adequate erosion control plans.” There’s no indication in the regulations about what is “adequate.” Hal said the DRB can decide what is adequate. Mark said he doesn’t think projects of this nature should be expedited. Barbara said she would be comfortable leaving the language the way it is and letting the DRB do a site visit and determine what has to be done. **Mark made a motion to leave the language as is. Barbara seconded the motion, which passed unanimously.** Martha said plans have to be submitted with the application but the DRB doesn’t see the plans until later so they can’t require those initial plans to be prepared by a professional engineer. Martha suggested changing the language somewhat. Barbara said she thinks topographical lines should be included on the plans. Elvin said it’s a two-step process. The applicant has to present the DRB with a plan, which may or may not be adequate. If it’s inadequate, Elvin said, they’re going to be told what the remedy is. Hal suggested removing the word “adequate” so Martha doesn’t have to determine whether the plans submitted are adequate or not. Martha suggested the following language: “If, after review, the DRB determines that the erosion control plan presented is inadequate, they may require...” The PC agreed with the suggested language. Barbara agreed with Hal that the word “adequate” should be removed. Mark said we want to let the applicant know that there is a standard that has to be met. Barbara suggested adding “appropriate for the site and work to be done” at the end of the sentence. Hal said that requires a judgment on the part of the ZA, who is required to interpret the regulations literally. Hal suggested that Martha come up with draft language for the PC to consider.

6. Minutes – March 9th: **Barbara made a motion to approve the minutes of March 9th. Mark seconded the motion, which passed unanimously.**
7. Next meeting – May 4th at 7:00 PM. Barbara inquired about Jason Rasmussen’s progress on the ridgeline maps. Martha said she will check on that. Hal noted that other towns only map the most prominent ridgelines.
8. Adjourn – **Mark made a motion to adjourn at 7:45 PM. Elvin seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison