**Town of Weston**

**Planning Commission**

**Draft Minutes of Meeting and Hearing**

**January 12, 2023**

**Present:** Deborah Granquist (Acting Chair) (Zoom), Anne Fujii, Laura Katz (Zoom), Jeff Lennox (Zoom)

**Absent:** Tom Foster

**Public:** Will Goodwin, Zoning Administrator (ZA)

Chris Lindgren, Applicant

Jeff White, Project Attorney (Zoom)

Frank Parent, Project Engineer (Zoom)

Jessica Rizio, Weston Town Engineer (Zoom)

**Meeting called to order at 5:09**

The Chair reviewed the agenda.

There was no public comment.

Approval of Minutes

*Motion by Laura Katz and seconded by Ann Fujii to approve the minutes of December 12, 2022. Motion carried unanimously*.

H**earing**: **Chris Lindgren Subdivision Final Plat Review (continuation)**

The hearing was called to order at 5.11 PM. No ex parte communications or conflicts of interest reported. Everyone continues to be under the oath taken at previous hearings.

The Chair noted that the Applicant has submitted new plans prepared by Frank Parent for the slope/grades of a portion of the driveway to Lots 5/6 as requested at the previous hearing. Our subdivision regulations require a slope of no more than 10% on driveways. The Applicant is proposing slopes in excess of that amount and, therefore, is requesting a waiver from this requirement.

The Chair asked the Zoning administrator if there have been any additional materials submitted. Will Goodwin stated that he received updated legal documents from Jeff White and an email from Attorney John Stasny stating that he is starting to work on the legal documents.

The Chair noted that the sole issue before the PC this evening is the waiver request for the proposed grades to the driveway to lots 5& 6. Mr. Parent’s proposed plan covers the portion of the driveway to lots 5/6 from the junction with the “unnamed road” to the cul de sac at the top, at which point the driveway makes a sharp turn toward the south. She turned the hearing over to Chris Lindgren and Frank Parent to address the plans and the waiver request.

Mr. Parent explained the new drawings. He said he started his work by looking at the slope of the existing logging road, and discovered that if he were to make the slope of this portion of the driveway no more than 10%, he would have to lengthen the driveway by 100’, which would require a switchback(s) and much more earth moving. So, his goal was to use the grade of the existing roadway with as little regrading as possible – resulting in less impact and earth disturbance. He states that the new driveway grades will provide access. His explanation of the grades follows:

1. The first section is 7.1% and after that it goes mostly over 10% with a few exceptions. So tried to make short bursts of steepness followed by less steep. Tried to balance steepness with not so steep.
2. Then 90’ at 12.1%.
3. Then regrading next section of 185’ to 10% with a new pullout
4. Then 130’ at 12.6%
5. Then regrading next section 180’ to 10%
6. Then 11.7% - 71’
7. Then 13.9% - 146’

The Chair asked whether a UPS truck could get up the proposed driveway on a snowy day like today. Mr. Parent answer - it would be a challenge but even 10% could be a challenge on a day like today. On an average day – no problem. But it does become a maintenance thing. Plowing has to be stayed on top of. Jeff Lennox noted that for purposes of understanding grades, part of the road over Terrible Mountain is at 10%.

Question - is the subdivider building this steep portion of the driveway? Mr. Lindgren – No he is not doing the whole driveway. He is only doing up to the new fire pull off so that the driveway will be passable for him to do the construction on the community septic system. Building the remaining portion of this driveway is the responsibility of the owners of lot 5/6.

Question – the plans show just one pull off. Weren’t there supposed to be two? Frank Parent answer, we have enlarged the roundabout instead of adding another pull off. Didn’t want to put a second pull off in a section with over 10% grade. But he agreed that there should be something up toward the top. So in lieu of adding an additional pull off, Mr. Parent proposes increasing the size of the roundabout which would be in section that is at 10%. It is not very steep in the roundabout area.

Question – is the remainder of the driveway to lots 5/6 less than 10%? Answer Frank Parent. We haven’t scaled this portion but it can all be less than 10%.

Question -has Weston Fire Chief signed off on these plans? Mr. Lindgren said he believes that the Fire Chief has signed off on this plan. Will Goodwin said that the “sign off” by the Fire Chief was prior to these new drawings. So no, the Fire Chief has not signed off. The Chair said we will need a sign off by the Fire Chief. Will Goodwin will follow up on this.

Question – in addition to the Fire Chief, do we need some sign off by the Rescue Squad? The ZA said there should not be a problem for an ambulance.

Mr. Lindgren offered that the reason that we are being asked to waive 10% grade that is required by our subdivision regulations is due to natural site conditions as outlined in his waiver request letter dated 11/7/22. By correspondence dated 11/15/22 the PC said it would entertain a waiver request once it received a proposed plan.

Question – what is proposed width of this driveway? Answer - 12’.

Question about permeable v. impermeable. Answer – the portion of the driveway that we are talking about tonight (the existing logging road) is impermeable, but the remainder of the driveway – from the cul de sac on – is permeable as is the driveway to lots 2/3, and all individual driveways are also permeable. Mr. Parent has spoken with the manufacturer of the permeable system (geopavers) and asked about whether the system works with a 10% grade and the answer was yes, but probably not a good idea to go much steeper than 10%.

Mr. Lindgren said that Brian the fire chief had been to the site and said it was ok. [Brian was the fire chief before Ryan Hart.]

Ms. Granquist read from the Geopaver website which states that additional anchorage of the pavers may be necessary for slopes between 5-10%. Parent responded that when time comes to build, Mr. Lindgren would give our plans to the local manufacturer rep to look at slope and advise what kind of anchorage would be necessary.

Question – is there a requirement that all driveways be built with this system? Answer - Parent – yes. Lindgren – no. They don’t have to use the Geopaver system. They can use something like it. The geopaver system is approved by the State of Vermont as are several other manufacturers. Parent -- there are a number of systems that do the same thing.

Question – who approves this in State? Answer – not really approved by the State. But loading weights are approved. Mr. Lindgren explained that when you look at storm water practices, these types of systems are “referenced” as an “accepted practice”.

Questions – how will lot buyer know what system to use to build the permeable driveways? Parent. Their contractor would look at the plans and know what to do.

Question – is there something in the deeds requiring lot owners to use a system like geo-pavers. Answer – Jeff White – no. It would be in the permit. But we could put something in the deeds. Mr. White reminded the PC that the HOA only deals with the road not driveways.

Question - Thought the PC talked about having the storm water exemption requirements be part of the deeds (i.e., if a homeowner does not comply with the permeable restrictions, that a storm water permit must be applied for). Mr. White said that there is a description in the deeds that there is an impermeable surface restriction of a certain number of square feet. The PC would like something more permanent than PC notes.

Question – the PC also talked about what happens if the impermeable surface restriction is violated. It should be clear to the lot owners if the restriction is violated, the homeowners have to apply for a storm water permit. Mr. White said there is no need to include that kind of language because it “would be natural.” He gave speeding ticket example. If you speed, you know you might get a ticket and if you do, you have to pay it. Ergo, the same with a violation of the surface restrictions.

Ms. Rizio said that it was her understanding that since all of the lot owners are under a common plan of development, if one homeowner breaches the requirement, then all homeowners will be forced to form a HOA and file for a storm water permit. She suggested that the PC should be clear about this in any decision. Mr. White said it is not necessary to state the obvious. If you pass the restriction threshold, you are in violation. Would be unusual to put this kind of requirement in a deed.

Jeff Lennox reminded the PC of neighbor concern about run off from this project. Homeowners might be more familiar with what happens if they get a speeding ticket but not what storm water conditions are and what a violation of a storm water exemption actually means. It is not our job to regulate but it is our job to make sure that we inform.

Mr. Permit suggested that the best place for this would be in the permit conditions. He has never seen something like this in deed but it would be in a HOA.

Ms. Rizio said that she has seen these kind of restrictions in restrictive covenants where each deed then refers to being subject to the particular restrictive covenants.

Mr. White – the deed does say that a lot owner cannot exceed a certain impermeable amount. But does not state what happens if they do.

Ms. Rizio commented on the driveway grade discussion, having spoken with the firm’s transportation engineer. FYI - NYS allows up to 12%. VTrans A 76 allows up to 16%. So the Applicant’s proposal seems to be within those recommendations. She would recommend that the Fire Chief is aware of the proposal and signs off. And also the Rescue squad if deemed advisable.

Ms. Rizio also spoke about storm water run off and the need to make sure that run off is handled well. The previous plans showed a grass swale on upper side and a level spreader on uphill side. She said that a grass swale is not appropriate for a slope in excess of 10%. Also, level spreader seems to be situated such that it sends water right back into the driveway. She would like to see updated plans. Mr. Parent agreed that the original plan is no longer valid for the revised driveway slopes. He agreed that he has to do new plans if the PC grants the waiver. There may be need for more culverts, a different material in the swales and more level spreaders.

Ms. Fujii noted that there are many unusual aspects of this subdivision from driveways instead of roads to not applying for a storm water permit and bumping up against storm water exemption. This puts a greater onus on the PC to make sure that everything is covered since there is no storm water permit to rely on.

There was discussion about next steps. The PC will have to hold a deliberative session to decide about the driveway grade. But in any event, the PC needs to recess the hearing to a date certain. After discussion, it was agreed to move the hearing to March which would allow Mr. Parent more time once the PC decides about the waiver. Mr. Parent said he needs to apply for amended WW permit and do new storm water runoff plan. He thought that March 1, would be a more reasonable date to get everything done that needs to be done.

The PC will try to get a decision to the Applicant as soon as possible.

Ms. Granquist then called for a motion to recess the hearing to March 1, 2023 at 5 pm. The following motion was made by Laura Katz and seconded by Ann Fujii:

*To recess the hearing until March 1, 2023 at 5 PM. The motion passed unanimously.*

The hearing was closed at 5:45 PM

Minutes taken by

Deborah Granquist*, Acting Chair of Planning Commission*