

Zoning Commission

MINUTES

Public Hearing and Special Meeting

November 1, 2016

7:30 p.m.

Main Level Meeting Room

MEMBERS PRESENT: Mr. Solley, Mr. Reich, Mr. Werkhoven, Mr. Averill, Mr. Solomon

ALTERNATES PRESENT: Mr. Burnham

ALTERNATES ABSENT: Mr. Sivick

STAFF PRESENT: Ms. Hill, Ms. Pennell

ALSO PRESENT: Mr. Sabin, Mr. Kleinberg, Ms. Sutter, Ms. Mastejo, Dr. Bazos

CONTINUATION OF PUBLIC HEARING:

Bazos/90 Tinker Hill Road/Special Permit: Section 6.5/Access and Steps within 50-75 ft. of Lake Waramaug/Steps and Access Path:

Mr. Solley reconvened the Public Hearing at 7:30 p.m. and seated members Solley, Reich, Werkhoven, Averill and Alt. Burnham.

Mr. Richard Kleinberg submitted a letter to the Commission from Trinkaus Engineering, LLC on behalf of the Lake Waramaug Association dated November 1, 2016, which was critical of the application. Mr. Solley read the letter aloud for the record. A copy of letter is in file.

Mr. Solley asked if Mr. Dirk Sabin, Landscape Architect, would like to comment with respect to the letter. Mr. Sabin proceeded to address the list of six items in this letter, referencing plans he provided titled "Lake Access", dated February 10, 2016, Sheet LA-1 and LA-2 and plans titled, "Existing Easements & Topographic Map for Lot 2 & Lot 6" dated January 29, 2016, Sheet EC.1..

Mr. Sabin stated with regard to the drainage report, that this is not an application for a new building lot, driveway, house, etc. He noted that this is a pedestrian walk way along a deeded right of way with all work to be done by hand. Mr. Sabin stated the proposed drainage work was designed by Arthur H. Howland &

Associates and has been approved by Inland Wetlands Commission. He stated that there will be drainage improvements to the accessway, as well as the proposed rain garden just above West Shore Road. Mr. Sabin noted that Mr. Paul Szymanski, engineer from Arthur H. Howland & Associates submitted this data. Mr. Sabin stated this is for sheet flow, no pipe run off, down a hillside in a low impact path.

With regard to Mr. Trinkaus statements that cutting into the steep slope on the west side of West Shore Road would worsen the current condition of drainage in this area, causing safety issues on West Shore Road, Mr. Sabin replied that this is an incorrect assertion. He discussed the construction process for this area and that it would be carried out in the proper manner, as well as utilizing State Troopers during the course of this work. Mr. Sabin explained the stabilization of this area once completed with the use of exposed rock and/or boulders set alongside the slab steps going up alongside the hill. He further explained the reason for this 6 ft. gravel apron at the bottom of the slope is to allow more room for the machines doing the work, providing a setback from the road, as well as to provide a safe landing area for the pedestrians utilizing the accessway.

Mr. Sabin said the assumption that the plan involves putting in a parking area is incorrect. He explained the size of the area needed for compact and larger vehicles and noted that this area in question was not large enough to accommodate these. He provided enlarged map for the file, which illustrated the roadside 6' x 9' x 18' landing, drainage and recharge bed. Mr. Sabin feels this proposed plan will help to improve the drainage problems that currently exist. Mr. Solley asked Mr. Sabin if the DOT has considered putting in a drain that would help with the bleed out onto the road. Mr. Sabin stated they have not mentioned this. Mr. Sabin did note that DOT, had not yet completed its final review of the application and plans and would not do so until all local permits were approved.

Mr. Sabin addressed the final concern in the LWA letter referring to the detailed construction sequence needing to be evaluated by the Commission to ensure that work is done properly and safely, as well as not impacting traffic on West Shore Road. Mr. Sabin again explained the thorough construction process in detail and the safeguards in place while working on West Shore Road. He noted that the work on West Shore Road will be

completed and stabilized before beginning any other stages of this project. Mr. Sabin stated that the work on West Shore Road is estimated to be completed within two weeks.

Commission members had questions which Mr. Sabin addressed regarding the construction process. He did note that it is the applicant's desire to have this accessway be low maintenance and have a naturalistic quality to it.

Mrs. Hill informed the Commission that Resident State Trooper Sordi had spoken with her regarding his concerns about parking in this landing area on West Shore Road. He was against any parking in the landing area. Mrs. Hill stated that Trooper Sordi did agree that it is a good idea that the landing will have a 6 ft. setback so that individuals will not be stepping off into the road. Mr. Sabin again reiterated that this is not a parking area, nor large enough to be one. He noted that the way this landing is proposed will improve sight lines offering safety to individuals using this accessway.

Mr. Solley asked if the Public had any comment. Mr. Richard Kleinberg of 145 West Shore Road, representing the Lake Waramaug Association, stated that a special permit in the Lake Waramaug District has a requirement that there is a storm water management plan for the entire lot. He stated this regulation was adopted ten years ago. Mr. Kleinberg referenced an adjoining property that has an accessway coming down the same slope and provided photos. He explained there are stairs in place that do not disturb the terrain, as well as having a landing that is set in four feet, offering pedestrians a place to stand and safe passage. He suggested Dr. Bazos could install a similar stairway with less disturbance to the slope. With regard to the "bathtub" that is proposed for the landing area, Mr. Kleinberg questioned whether this would perc as there is a lot of ledge in the area. Mr. Kleinberg feels the soil types and perc rate need to be taken into consideration by the Commission. He stated the LWA's request that the Commission retain an engineer was to ensure a thorough review and to make sure there was sufficient data to show this plan will work.

Mr. Werkhoven stated that Mr. Trinkaus was involved with the Inland Wetland application process. He noted that the Inland Wetland Commission had approved this plan with conditions. Mr. Kleinberg asked if all the conditions and additional data required had been submitted. Mrs. Hill stated that one of the

conditions did require that this information be submitted prior to the start of work on this project.

Mr. Sabin stated that Arthur H. Howland Associates did soil testing by hand along the slope and this data should be in the Inland Wetlands file. Mr. Sabin will be sure this information will also be put in the Zoning file for this application.

Mr. Sabin again explained the stormwater plan for this area and said the sheet flow would remain the same post development. Discussion continued between commission members and Mr. Sabin, addressing further questions with respect to water flow and drainage.

Mr. Solley felt it pertinent to review Zoning Regulation 6.5 as this application for a special permit is governed this regulation. Mr. Solley read the regulation aloud. Mr. Solley inquired as to when Lot #2 had been cleared. Mr. Sabin stated it was done sometime last winter. He further stated that as part of the Conservation Commission's approval of an open space proposal, that a long term management plan was required. This would include maintaining natural vegetative conditions.

Ms. Maria Mastejo of 245 West Shore Road stated that she does not feel the Inland Wetlands Commission and the Zoning Commission should be operating in a silo. She believes that Inland Wetlands has made clear conditions regarding this application and proceeded to read aloud these conditions. She urged the Zoning Commission to inquire if the tests that Inland Wetland had required were done. She said if there were any obstacles encountered, they should be brought to the Inland Wetlands Commission, as well as to the Zoning Commission. Ms. Mastejo requested the Commission seriously consider hiring an objective engineer to advise, as well as take into account the conditions that were set forth by Inland Wetland Commission. She stated that the original plan presented to the Inland Wetlands Commission for this accessway had included a parking area and as a result of the intervenor's engineer providing additional information, the project had been scaled back.

Mr. Solley clarified that the Inland Wetlands Commission's conditions for this application are its independent conditions, that are taken very seriously, and if they are not met, the project ceases. He stated that would go for any conditions that the Zoning Commission puts in place for this application as

well. Ms. Mastejo argued that the additional testing required had not been and so the obstacles that might be encountered were unknown.

Mrs. Hill stated that one of the conditions of the Inland Wetland's approval was that contractor/owner has to notify the Land Use Department 48 hours prior to the start of work. She noted that at that time, the Enforcement Officer will check the erosion controls, as well as check the file to be sure all required documents have been submitted. Mrs. Hill stated that if these conditions are not met, the project would not have approval to move forward.

Mr. Sabin noted this has been a long process and the modifications that had taken place from the very beginning were done voluntarily by the applicant. Regarding the soil testing results, Mr. Sabin said he would submit them for the Zoning file. Dr. Bezos stated that he wants this project done right, that it would look natural, and he would do what is right for the lake, as well as the neighbors.

Again questions from Commission members were presented to Mr. Sabin and were discussed and addressed.

Mr. Kleinberg spoke referencing the Special Permit requirements of Zoning Regulation 14.3, which state that the test results need to be submitted prior to approval and afterwards as a condition of approval. He stated that if the borings are not submitted prior to action on the application, the Town is not protected.

Mr. Solley asked if there were any further questions from the Public. No questions were noted.

Mr. Solley stated he would like to have the soil testing as part of the Zoning file as it is important. Mr. Averill and Mr. Werkhoven felt this was redundant, as Inland Wetlands has this in its file and it is a condition approval.

Mr. Kleinberg stated these issues at hand are complex, sensitive and there is a lot at stake. He feels it would benefit the Town to have professional guidance to help the Commission evaluating these plans.

Mr. Averill does not feel hiring another engineer is necessary or that the applicant she be burdened with other the cost of another engineer. Mr. Werkhoven agreed with Mr. Averill.

Dr. Bazos reiterated his desire to do what is right for the lake and feels confident the professionals handling this project will ensure the project is done properly.

Ms. Mastejo also spoke, *stating that she wanted* the record to be clear as well, expressing her care and admiration for this area and the lake.

Mr. Solley stated he believes most of the concerns raised in the Trinkaus letter have been addressed by Mr. Sabin.

MOTION: To close the Public Hearing for Bazos/90 Tinker Hill Road/Special Permit: Section 6.5/Access and Steps within 50-75 ft. of Lake Waramaug; By Mr. Reich, seconded by Mr. Averill, passed 5-0 vote.

The Public Hearing was closed at 8:54 p.m.

Mr. Solley called the Special Meeting of the Zoning Commission to order at 8:57 p.m. and seated members Solley, Reich, Werkhoven, Averill and Alt. Burnham.

Bazos/90 Tinker Hill Road/Special Permit: Section 6.5/Access and Steps within 50-75 ft. of Lake Waramaug/Steps and Access Path:

Mr. Solley stated that the Commission has 65 days to vote on this application. Mr. Averill stated he has all the information he needs to vote on this application. Mr. Reich, Mr. Werkhoven and Mr. Burnham agreed with Mr. Averill.

Mr. Solley stated that he feels it necessary as part of this application approval to make a condition that states the 6'x 9'x 18' landing area will not be used for parking and not recognized by the Zoning Commission as a parking area. Members agreed with Mr. Solley.

MOTION: To approve the Special Permit: Section 6.5/Access and Steps within 50-75 ft. of Lake Waramaug for Bazos/90 Tinker Hill Road/with the condition that the 6'x 9'x 18' landing shall not be used for a parking area and the Zoning Commission does not

recognize this landing as a parking space. By Mr. Reich,
seconded by Mr. Averill, passed 5-0 vote.

MOTION: To adjourn the meeting at 9:06 p.m. By Mr. Werkhoven,
seconded by Mr. Reich, passed 5-0 vote.

Filed subject to approval.

By: _____
Donna Pennell, Land Use Secretary
November 9, 2016