

Regular Meeting No. 12127 of the Killingworth Planning & Zoning Commission to be held on Tuesday, October 17, 2023, at 7:00 PM by Go-To-Meeting.

1. Call to Order

Chairman Lentz called the meeting to order at 7:00 PM. Members present and seated were Lentz, Hogarty, McGuinness, Cook, McLaughlin, Tobelman. Alternates present but not seated were Drew, Martin, Warren. Approximately 20 members of the public were present as well as Attorneys Branse, Bradley, Pinder and McKeon.

2. Minutes of Regular Meeting September 19, 2023

Motion by Cook, second by Tobelman, to approve September 19, 2023 Minutes as written. PASSED UNANIMOUSLY.

3. Communications and Bills

1. Letter from David Gumbart, KLCT, dated October 17, 2023, Coy Subdivision.
2. Letter from Richard Darin, Fire Chief, Fire Protection Plan, dated 10/16/2023.

4. Old Business

Jack B. Coy LLC, C/O Sweeney Law Firm, 897 Boston Post Rd, Madison, CT 06443, Subdivision, Roast Meat Hill Road, 29.82 acres, 6 Lots, Tax Map 28, Parcel 59A, Zoning District R-2

Chairman Lentz noted reports have been received from Inland Wetlands, Water Company, Sanitarian, Engineer and Fire Chief which is all the information required to act on the subdivision. It was noted in the site plan signed by the Fire Chief that sprinklers were required in the houses.

Chairman Lentz noted the only thing remaining was the dedication of the Open Space. The Land Trust in their letter indicated they were willing to accept the Open Space either in fee or as a Conservation Easement. Lentz stated one question was that he didn't see it on the site plan as a separate parcel because it's part of Lot 1. Bob Doane noted it was part of Lot 1. It's 9.19 acres and it's shown on the subdivision plan as a Conservation Easement, Lot 1 as an 18.14 acre parcel. Doane further noted the intent is to dedicate it as a Conservation Easement in perpetuity to the Killingworth Land Conservation Trust. Lot 1 is an 18.14 acre parcel and 9.19 acres of that lot will be dedicated in perpetuity as a Conservation Easement. The applicant plans to build a house on Lot 1 and plans to live there. There is a condition that the applicant prior to any development on either lots 2, 3, 4 and 5, those lots will be presented to the archeologist prior to excavation. Martin asked if it was to be delineated on the plan. Doane replied yes, it's shown on the plan and described in metes and bounds 9.91 acre parcel. Doane reviewed the plan, Lot 1, 18 acres, edge of the Conservation Easement, access to the Easement.

Lentz noted the Subdivision regulations state that the method of dedication of open space is subject to the approval of the Commission. The current open space proposal of an easement is inadequate in view of the historical and archaeological importance of the site, which is the location of the northern village of the Hammonasset Native Americans. The applicant is proposing the open space as an undefined easement on part of a lot. He is retaining ownership

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of it and has stated there can be no public access. This is inadequate and not consistent with the purposes of open space which include preservation of historic and cultural resources including historic and archaeological sites as specified in Section 485-52.A.(1)(e).

It was noted at the last meeting it could be dedicated to the Town of Killingworth.

The application should either be denied or include a condition it be dedicated in fee to the Town of Killingworth. It is the mutual desire of the applicant and the Land Trust to maintain the interest of that property. There was much discussion regarding the Conservation Easement acceptance and it was noted if the Easement is not acceptable, then deny the application. It was further noted the Easement is a very responsible Easement. The applicant cares about this property and doesn't want the property overdeveloped.

Attorney Branse asked if the text of the Easement is part of the record now. Pinder replied no, the Commission does not have Easement copy on the record.

Lentz noted most Open Space was dedicated to the Town in the past. We can approve the Subdivision but require a modification that Open Space be dedicated to the Town of Killingworth. There was much discussion regarding the Open Space and whether it should be in fee or an Easement and only to be dedicated to the Town and not the Land Trust.

Berkun reviewed some of the history noting that putting Open Space into an Easement is a good thing. Lentz asked why the applicant wants to retain ownership. Public access is very important. You want to retain ownership and have no public access.

Chairman Lentz read the following 3 conditions into the record.

1. The application is modified to require that the open space in the required amount and location and with a 25 foot wide access from a public road be dedicated in fee by warranty deed to the Town of Killingworth without restrictions except for the restrictive covenant specified in Section 485-52.D of the Subdivision Regulations. The revised open space and access must be shown as a separate parcel on a revised site plan and deeded and recorded in the Town land records before the subdivision mylar of the record subdivision map is endorsed and signed. This condition and modification is integral to the approval of this subdivision, because of the historical and archaeological significance of a Native American village site. Without this condition, the Commission would have had no choice but to deny the application as not being in compliance with the Subdivision Regulations.

2. Archaeological testing is to be performed on areas of ground disturbance as described in a letter dated July 5, 2019 from Catherine Labadia, Deputy State Historic Preservation Officer.

3. The fire protection plan as approved by Richard Darin, Fire Chief, in a site plan dated October 16, 2023, must be recorded in the Town land records.

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These conditions need to be on the mylar before it's recorded. There is a time limit on this otherwise it becomes null and void.

Motion by Cook, second by McLaughlin, to approve the Coy Subdivision subject to modifications and conditions as read by Chairman Lentz. In favor – unanimous. Opposed – none. Motion Carried by Unanimous Vote.

5. Zoning Enforcement Officer's Report

1. Received complaint from Connecticut State Police regarding Dudley Town Road of people repairing cars dropping stuff into the town drainage system. Actively reviewing this complaint now.

2. 85 Alders Bridge Road. Illicit driveway causing water runoff on roadway and neighbors property. Cease & Desist Order sent out yesterday.

3. Route 80 and 81 – propane complaints.

4. Cow Hill Road – junk yard.

6. New Business

Motion by Cook, second by Tobelman, to go into Executive Session for the purpose of discussing pending litigation and a settlement proposal at 7:55 PM. All Commission members were present as well as the Leo Bombalicki, Judy Brown, Mark Branze and Jack Bradley. No decisions were made and no votes were taken. PASSED UNANIMOUSLY. Came out of Executive Session at 8:27 PM at which time members of the public could rejoin the meeting.

It was noted the Commission could now vote on this. Attorney Rutkowska asked if there was anything left unclear.

Attorney McKeon noted he was present representing a group of neighbors. He further noted the terms need to be discussed at a public meeting. Neighbors don't know what was discussed during the Executive Session. Attorney Branze noted the Commission is not required to disclose terms of settlement. Brief discussion.

Motion by Cook, second by Tobelman, to approve proposed Stipulation of Judgment submitted by Running Brook Farms. UNANIMOUSLY DENIED.

Building Official Pleines noted the wood burning furnaces are not permitted. They have to go through Zoning and Building. Commission member Martin asked if a search could be done to see what is permitted for the furnaces. ZEO Bombalicki noted 2 furnaces and greenhouse is not permitted, but one across the street is permitted. Cook noted he thought previous ZEO Talbot had referred this to the State. Paul Cody (Patrick Drive) spoke to someone at DEEP. This is now a Health District issue. CRAD is supposed to be dealing with the furnaces. The

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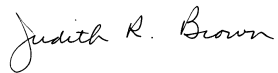
ZEO noted the wood boilers take 2-3 cords for 1000 s.f. of space and 18 cords per greenhouse. CRAD has been unresponsive. Brief discussion as to what should be done if they don't have permits.

7. Report of Officers and Subcommittees – none.

8. Adjournment

There being no further business, the meeting was adjourned at 9:07 PM.

Respectfully submitted,



Judith R. Brown, Recording Secretary