December 1, 2020

**MINUTES: THE PLANNING & ZONING COMMISSION**, Town of Hamden, held a Public Hearing and Regular Meeting via Zoom teleconferencing technology on Tuesday, November 24, 2020 at 7:00 p.m. with the following results:

Commissioners in attendance: 
- Brack Poitier, Chair
- Joe McDonagh, Vice-Chair
- Robert Roscow
- Michele Mastropetre
- Joseph Banks
- Paul Begemann
- Robert Cocchiaro
- Ted Stevens, Sitting for Vacancy

Staff in attendance: 
- Dan Kops, Town Planner
- Matt Davis, Assistant Town Planner
- Tim Lee, Assistant Town Attorney
- Genevieve Bertolini, Stenographer
- Natalie Barletta, Clerk

Chairman Poitier opened the meeting at 7:05 p.m. The clerk read the Public Hearing items into the record. The Commission and staff introduced themselves. Chairman Poitier then reviewed the meeting procedures.

**A. Public Hearing**

1. Special Permit and Site Plan #20-1511
   - 82-92 Crestway, M Zone
   - Site Remediation and Stabilization
   - Eighty Two-Ninety Two Crestway, Applicant
   - *Public Hearing Continued from October 27, 2020*

James DiMeo and Joseph Porto addressed the Commission. Joseph Porto, Attorney at Parrett, Porto and Parese reminded the Commission that the Special Permit application is to remove 6,000 cubic yards of soil and wood debris that sits on the two adjacent properties, which are 785 and 925 Sherman Avenue. Attorney Porto introduced Ms. Schuler, Mr. Carr, and Mr. DiMeo. Attorney Porto reminded the Commission of the process, and how it will comply with all protocols. The soil, not the woody debris, will be going to Elite Excavation in Windsor, which is a licensed DEEP disposal site. Attorney Porto said that he will also discuss how the unprocessed wood and the pile of topsoil will be removed. Attorney Porto clarified that the topsoil, not the wood debris, will be brought to Elite Excavation. Attorney Porto said that he submitted a letter to Zoning Enforcement Officer to ask permission for the top soil to be removed, which was denied. There has been no activity on the site since the last meeting. The Commission had asked the applicant to update the survey with the existing conditions, and they have since been updated. Attorney Porto stated that Mr. Carr
will review how soil is removed and tested, and the sorting and testing process, which is a request made by the Town and DEEP (Department of Energy and Environmental Protection). Attorney Porto stated that he submitted all of the documents that the State of Connecticut DEEP requires to get the project and property properly permitted so that the client resume business, however Beatrice Milene confirmed that a DEEP permit is not required. Attorney Porto reminded the Commission that this is an application just to remove the soil and the other debris.

Chairman Poitier asked Attorney Porto if he received the report from Mr. Kops. Attorney Porto said yes. Chairman Poitier said that he would like Mr. Kops to read his report to talk about his concerns. Mr. Kops read his report recommending denial of the application. Mr. Kops then read an email from Town Engineer, Mark Austin, which had the same concerns.

Chairman Poitier said that he would recommend continuing the Public Hearing until the December meeting, and his suggestion is to continue this until the plans are sufficient. Attorney Porto said that he doesn’t agree with the staff’s position as reviewed in the memo, and will revise the material if the Commission prefers that he does so. Attorney Porto said that the applicant is not operating on the site, and said what Mr. Kops said wasn’t true. Attorney Porto added that there is no change since the last hearing, and the memo is not accurate nor does it address the issue at hand. Attorney Porto added the Superior Court is going to want the material removed.

Chairman Poitier said that the drawings are not accurate, and recommended that Attorney Porto meets with Town staff to revise the application.

Mr. McDonagh said that he agrees with what Mr. Kops said in his report, and he sees that there are several pages of items that need to be addressed on a point by point basis. Mr. McDonagh added that while it could be simply addressed, he doesn’t feel comfortable approving anything at this time and the Commission needs answers to these questions.

Mr. Roscow commented that he had given a great deal of thought to this by looking at the site’s contours on the plans, and is still unsure what they represent. He said that basically at the top of the property where the stone wall was, which he assumes is the property line, from there to the top of the debris is a drop of 24 feet. Mr. Roscow stated that the applicant has no regard for the property line, and has pushed all of this material over 90 feet onto other people’s property. Mr. Roscow commented that if materials are removed with a 200 CAT excavator as proposed in the plans that would be optimistic for success. He said that the fact of the matter is that this material was pushed over the hill without a plan or anyone to spread the material out. His concern is that a tree can get pulled out, and may have either another tree or a boulder attached to it. Mr. Roscow said that he doesn’t know any other way to do it properly.

Mr. Roscow continued by proposing the following: at the property line, steel sheet piling is installed well below the depth that is determined by a licensed engineer to mark the property that is owned by the applicant. This can be done all along where the debris has been pushed over the hill, and at least 3 feet of this be stuck out of the ground so that the applicant knows where the property lines are, and can’t push anything over. Mr. Roscow suggested that since the Engineering Department is concerned about drainage, to then have a drainage ditch on his side with gravel and piping, so that the applicant knows where the water is going. Once that sheet piling has been driven in, removal of the material can then begin to be taken away. That way, it is safe and won’t cause a landslide. Mr. Roscow said that it has to be done in a manner that has pockets in the event that there is a collapse. A CAT 200 has a reach of 25 feet, and there is a greater distance of the material than that. Mr. Roscow then stated that benches need to be put in, so that the applicant can
operate from the top and go farther in. Mr. Roscow commented that this is the only way to do this, and sheet piling is done to stabilize excavation.

Mr. Roscow added that he doesn’t believe that this can be done safely, because there will be pockets, and everything needs to be interconnected. He said that there has been discussions of reseeding, which will not work because of the upcoming winter season. It is typically done by temporarily placing mats to stabilize where work is done until the bottom is reached. Mr. Roscow added that the Commission is looking at a major issue in operations so it can be done safely, and that this is not a homogenous site, but is material that was pushed by the owner without any regard of later excavation. Mr. Roscow said that he wants sheet piling at the site, so it’s done safely and stays there so there are no further issues. Mr. Roscow concluded that the problem is simple, which is that there is a pile of garbage.

Ms. Mastropetre said that she agrees with Mr. Roscow. She added that she has environmental concerns as well. Ms. Mastropetre added that it appears as though the work is going to be done by the applicant, and wanted to know the applicant is qualified to do the work.

Chairman Poitier asked Attorney Porto if he wanted to continue this to the December 8, 2020 Public Hearing. Attorney Porto said yes, and to address Ms. Mastropetre’s question, his understanding is that there is a heavy equipment operator on staff, and was told that he has the experience and qualifications to do so. Attorney Porto said that he doesn’t know about the licenses that this individual may hold, but will find out. Ms. Mastropetre replied that since she has several concerns including the safety of the people who are working at the site, damage to the property, and whether this debris could get onto a public roadway. She said that she would like the engineer to address or give an opinion to what type of contractor needs to be doing this, and if the applicant meets the qualifications, then that’s fine, but she wants to make sure that there are no injuries.

Mr. Stevens said that Attorney Porto stated the applicant is not operating, but then it was said that the applicant is actively operating his business and wondered how that was the case. Attorney Porto said he can operate a business, just not at that site, and yes he is still in business. Mr. Stevens asked how is business being operated and where the trees are going. Mr. Stevens also asked where the dumpsters were being stored.

Attorney Porto said that he was not prepared to discuss this, and does not know the answer to that question. He thinks that this is more related to the Site Plan Amendment application. Mr. Stevens said that it seems to him that it is, and this is a credibility issue. Attorney Porto answered that he still is in business, but is not operating at 82/92 Crestway.

Ms. Garrett said that she is quite pleased with the Planning Department’s approach, and that she thinks that it is important that it goes through the court system. She added that it’s questionable how all of this debris got on the site.

Chairman Poitier said that the Commission needs to get it resolved and fixed so that it can be more transparent. Chairman Poitier stated that the staff has to be comfortable with the application to make a decision, and the Commission can’t have questions about it when making their decision.

Chairman Poitier asked would there be enough time if it was continued to the eighth. Attorney Porto asked if he can consult with Mr. DiMeo, Ms. Schuler and Mr. Carr, and agrees that it is a great idea. Mr. DiMeo said that if he schedules a meeting tonight to try to revise the plans, he can create a revised set of plans as soon as possible. Ms. Schuler said she agrees, and the team is ready to meet immediately. Chairman Poitier suggested that he contact Mr. Kops on Wednesday, November 25, 2020. Mr. Kops expressed that’s where
things get tricky, since the revised plans need to be submitted 10 days prior to the December 8, 2020 meeting, which is November 28, 2020. Mr. Kops said that will not work, since staff needs adequate time to review the plans. Ms. Schuler said that she believes that she can create a written narrative that addresses the issues point by point to make that date. Attorney Porto said that he’ll contact Mr. Kops to work out a plan, and will proceed on that basis.

Mr. Stevens asked if it was possible to notify the owners of the adjacent properties. Attorney Porto said that he can try, since one of the properties is represented by an attorney that is difficult to contact, while the other is represented by a local attorney. Mr. Kops said that is why he recommended that if the Commission approves the application, the owners of the adjacent properties would get written confirmation that they have seen the revised plans and are comfortable with them. Chairman Poitier said that would be a part of the agreement when they come back. Mr. Kops said that is why the applicant will pay for an independent consultant who inspects what is going on and to make sure that it is safe.

Mr. McDonagh moved to continue this item to the December 8, 2020 meeting. Ms. Mastropetre seconded it, and the vote was unanimous in favor.

B. Regular meeting

1. Special Permit and Site Plan #20-1511
   82-92 Crestway, M Zone
   Site Remediation and Stabilization
   Eighty Two-Ninety Two Crestway, Applicant
   Public Hearing Continued from October 27, 2020

2.8-24 Review 20-415
   Skiff Street Bridge
   Rehabilitation Project of Route 15
   Town of Hamden, Applicant

Mr. Kops read his report recommending approval. Mr. Stevens asked if Mr. Kops knew the timeline of the project. Mr. Kops replied that he did not.

Mr. McDonagh moved to send a favorable report to the Council. It was seconded by Ms. Mastropetre, and unanimous in favor.

C. Old Business/ New Business

1. Review minutes of the September 22, 2020 and October 27, 2020 Meeting

Ms. Mastropetre commented that there are many little errors in the minutes. Ms. Mastropetre asked if the Commission would like her to discuss her revisions with the Clerk. Mr. McDonagh suggested tabling the approval of the minutes.

Mr. McDonagh then made a motion to table these to the next meeting. It was seconded by Mr. Roscow, and all were in favor.

2. Review 2020 Meeting Schedule
Mr. McDonagh moved to approve the 2021 calendar, Ms. Mastropetre seconded, and the unanimous in favor. The 2021 calendar was approved.

D. Adjournment

Mr. McDonagh made a motion to adjourn. It was seconded by Mr. Roscow, and unanimous in favor. The meeting was adjourned 8:26 p.m.

Submitted by: ________________________________

Natalie Barletta, Clerk of the Commission