



## Town of Hamden Planning and Zoning Department

**Hamden Government  
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March 3, 2020

**MINUTES: THE PLANNING & ZONING COMMISSION**, Town of Hamden, held a Regular Meeting on Tuesday, February 25, 2020 at 7:00 p.m. in the Legislative Council Chambers, Memorial Town Hall, 2372 Whitney Avenue, Hamden, CT with the following results:

***Commissioners in attendance:***

Brack Poitier, Chair  
Joe McDonagh, Vice-Chair  
Michele Mastropetre  
Robert Cocchiaro  
Paul Begemann  
Shanae Draughn, Sitting For Mr. Roscow  
Ted Stevens, Sitting For Mr. Mastroianni

***Staff in attendance:***

Dan Kops, Town Planner  
Tim Lee, Assistant Town Attorney  
Natalie Barletta, Clerk  
Genevieve Bertolini, Stenographer

Mr. Poitier opened the meeting at 7:07 p.m. The clerk read the Regular Meeting items into the record. The Commission and staff introduced themselves. Mr. Poitier reviewed the meeting procedures.

**A. Public Hearing**

1. Major Amendment to Site Plan 12-1479  
55 West Woods Rd, MIH Zone  
Diverse changes, including landscaping, grading, fencing & interior walks  
West Woods Properties, LLC, Applicant  
*Continued from the January 28, 2020 meeting*

Bernard Pellegrino, Pellegrino Law Firm, addressed the Commission. Mr. Pellegrino said that the application is now simply changing the fence that is along the top of the rock, and removing the trees that are at the bottom of the building.

Ryan McEvovy, Milone and Macbroom, presented the proposed changes to the Commission. Mr. McEvovy said a lot of the changes presented in the previous month's meeting have been removed by the applicant, including the proposal to put asphalt sidewalks on the property. Mr. McEvovy added that the chain link fence has been removed, with one notable exception.

Mr. Kops read a report written by the Assistant Town Planner to the Commission recommending approval, with the following conditions:

1. Within 90 calendar days of the date of this approval, the applicant must:
  - (a) Submit revised plans containing:
    - i. All Conditions of Approval.
  - (b) Provide a revised performance bond in an amount approved by the Town Planner and Town Engineer, if the Town Engineer determines any surety currently held is insufficient.
2. Prior to the issuance of a Zoning Permit the final plan shall be revised as follows:
  - (a) Include substitute plantings and/or grass in the rear of the building, in an amount and in locations to be approved by the Town Planner. Such plantings shall generally consist of low maintenance flowering perennials and shrubs having both ornamental and ecological values, including but not limited to

providing forage and habitat for pollinators. The initial installation shall be allowed to naturalize and remain, without impacting the function of the required catchment and related storm drainage.

- (b) Provide a detail of the proposed chain link fence for review and approval by the Town Planner, with such detail to include ornamental elements as part of the chain link fence.

3. Prior to and during fence installation:

- (a) The owner shall field identify the property line adjacent to the fence by certified LS to A-2 standards. Such field identification shall be inspected by the Town Planner or his agent prior to the initiation of fence installation and a contemporaneous copy of the certified A-2 survey depicting the location of this property line, as well as the location of the adjacent (on site) grading, cut slope and “shelf” available for fence installation shall be provided to the Town Planner. No fence installation shall be initiated until these surveys and field installation have been reviewed and approved by the Town Planner or his agent.
- (b) All work to install the fence shall take place from the owner’s property and no encroachment shall occur onto or impact abutting land not controlled by the owner without the abutting owner’s written consent.
- (c) In the event the abutter provides his consent to allow use of his property for the fence installation, the scope of work for the fence installation shall be strictly limited to what is directly necessary for said installation and a written scope of work and plan shall be provided to the Town Planner, describing and depicting such proposed work. Such scope and plan shall be reviewed and approved by the Town Planner prior to the initiation of any related work.

4. During construction of the catchment area:

- (a) The catchment area construction shall be monitored by the project PE and the Geotech, to insure that said installation is carried out in compliance with the approved design. As necessary and in order to meet other conditions of this approval, the LS shall document actual grading, slopes and spot elevations of the installation at a scale and level of detail sufficient to determine compliance with the approved design.
- (b) No changes will be made to the catchment area design without the prior review and approval of the Town of Hamden Town Engineer, based on a formal written request by the project PE and Geotech. Said request must be accompanied at a minimum by a detailed narrative explaining the basis for the request, a PE and LS certified alternative, and a written certification from the Geotech that said alternative is acceptable to him.

5. Upon Project Completion:

- (a) The owner shall make application for a Certificate of Zoning Compliance (CZC) and no Certificate of Occupancy shall be applied for until a CZC is issued under the Zoning Official’s signature.
- (b) The application for a CZC shall be accompanied by a PE and LS certified as built of site conditions, as well as a written certification by the project geotech that the final condition of the catchment area complies with his recommendations and any Town approved modifications, if applicable.
- (c) The application for a CZC shall also include a statement from the project PE that the project been completed in accordance with the approved plans, or in the event it has not, the narrative shall identify any deviations from the approved plan and include a request for modifications. Any such requests shall be reviewed by staff and may be approved by the Town Planner as field modifications or through application for a Minor Amendment, based on the Town Planner’s assessment of the requested changes.
- (d) No Conditional or Temporary CZC shall be issued without an acceptable surety being provided to the Town Planner, in an amount and form acceptable to the Town.
- (e) In the event a Conditional or Temporary CZC is issued, prior to the issuance of the final CZC, the owner shall provide the certified as-built necessary to document final acceptable completion of all required improvements.

Ms. Draughn asked why the contour of the land makes a chain link fence necessary. Mr. McEvovy said that along the property line, the cliff has a high point that comes down very rapidly. Mr. McEvovy said that the report said that the fence is not going to be a major concern, and it needs to be accessible for maintenance. He added that the applicant needs to ensure to make sure that no one can get through to the area that has been excavated.

Ms. Mastropetre asked Mr. Kops if there was any concern for the red rock chipping away and possibly hitting the building or someone walking. Mr. Kops said that the file contains a technical report from the specialist. Mr. McEvovy

added the only protective measure was a catchment basin area in the unlikely event it were to fall. Mr. McEvoy said that it needs to be accessible for maintenance.

Mr. Poitier said he was concerned about the possibility of the rock falling off, especially in the wintertime. Mr. Poitier then asked if there wasn't any concern with it, then why would the landscaping be changed in the first place. Mr. McEvoy said that the geotech's report specifically said that the nature of the rock has been reviewed, and this area will be available for maintenance purposes. Mr. McEvoy added that this will allow them to get back there easily to inspect the rock.

Mr. Poitier said that his real concern is where a piece of the rock is going to land. Mr. Poitier asked if the professional said that it was safe. Mr. McEvoy said that the geotech's recommendations discuss the overall the slope, stability, the cleaning of any remaining shards that might be there, the periodic monitoring, and the periodic maintenance that needs to be done. Mr. Poitier asked how long will it be checked. Mr. McEvoy said the geotech's recommendation is annual.

Mr. Cocchiaro asked what the depth of the clearout area of the contained rockfall is. Mr. McEvoy said two and a half feet, and added that the width varies. However, the geotech recommended 10 feet separation from the building. Mr. McEvoy added that there is a two and a half foot drop from the building right to the toe of the ditch, and a six foot ditch along the side. Mr. Cocchiaro asked what the maximum elevation was. Mr. McEvoy said that he'd estimate about 20 feet.

Mr. Cocchiaro inquired about the recommendation to do some descaling work before the planting is installed. Mr. McEvoy said the geotech is under contract to perform a final inspection. Mr. Cocchiaro said that one thing that he would like to note is that he is pleased with the changes, and he is glad that the ash tree was not removed. Mr. McEvoy said that the proposal is that there are a dozen or more ornamental trees in the area of the retention basin, and that additional vegetation was provided. Mr. McEvoy added that given the current state of the ash trees, he did replace those, along with cherry trees.

Mr. McDonagh wanted to clarify that there were exits in the rear. Mr. McEvoy said that there is one in the northern most area, and one in the southernmost area. Mr. McDonagh asked if he had objections to 2a and 2b, as it seems like the applicant was not in agreement with the recommendations here.

Mr. McEvoy, referring to the report, said the geotechnical engineer stated that there is very limited vegetation in the back area. Mr. McEvoy added that there is a limited area for maintenance, and that he knows that the applicant is concerned about the plantings in the back. Mr. McDonagh asked about whether or not the cliff is included in the conditions of approval. Mr. McDonagh also asked what the office thinks about lawn. Mr. Kops said that this office discussed the area, and it seemed appropriate to put something back there to make it more attractive than just a bare lawn. Mr. Kops added that there ought to be a reasonable compromise for plants that are appropriate, and don't impede maintenance.

Mr. Cocchiaro asked if the applicant was still looking to put plants in the back, but a lesser amount were eliminated from behind. Mr. Pellegrino said that if we were to go back to some sort of ornamental plantings behind the building, maybe not trees, then those new trees around the retention basins would need to come out. Mr. Pellegrino added that it seems that the benefit is better with those trees in the rear area being removed for maintenance purposes and that only grass be behind the building.

Mr. Cocchiaro said that there may be some issues with turf quality, and he doesn't want to see the turf go away completely. Mr. Cocchiaro added that he would like to see some sort of planting retention area behind the building. Mr. Cocchiaro added that while he understood the aspect of periodic maintenance, he still would like to see some sort of softening of the ledge.

Mr. Stevens said that he agrees with the applicant as he doesn't see anything growing in there, but would rather have grass there rather than dead trees and dead plants.

Mr. McDonagh suggested on condition 2A to consider substituting plants with lawn. Mr. McDonagh added that they still are including that the conditions be approved by the Town Planner, but it at least gives them that flexibility. Mr. McDonagh added that he did drive by the site, and that he did not think that much could survive there.

Ms. Mastropetre asked what the drop-off between where it's proposed to put grass and the swale is. Mr. McEvovy said that it was two and a half feet.

Mr. Poitier asked about the financial benefits of doing all of these landscape savings. Mr. McEvovy said that there are none.

Mr. Pellegrino stated that the trees will be replaced. Mr. Poitier said that the Commission wanted something that the residents will look at other than a concrete wall. Mr. Poitier added that now the applicant is coming back with grass plantings, and asked if there is going to be anything like picnic tables, going to be used in that area. Mr. McEvovy said that it was never intended for people to gather in that area. Mr. Pellegrino added that no one will have access to that area.

Mr. Pellegrino asked in terms of clarification, on the 3A, which is the field identification survey, would it be possible for the language to say "field identification and certification by the surveyor to be inspected." Mr. Pellegrino said it's to show the fence after it's installed and that it's installed on their property. Mr. Pellegrino said that the reason for that is primarily, to have as built at the end, and we would like to stake it and have it certified by the Town Planner/Assistant Town Planner, and to show that the fence has been installed properly at the site. Mr. Pellegrino then addressed the Commission by saying on item 3a of the Conditions of Approval, which is such field identification should be certified by a licensed surveyor, and should be inspected by the Town Planner or his agent prior to the initiation of the installation of the fence. Mr. Pellegrino recommended the Commission take out the rest of that sentence. Mr. Pellegrino added that he thought that he could say in that last sentence that no fence installation shall be initiated until these certifications and field inspections have been reviewed and approved by the Town Planner or his agent.

Ms. Mastropetre asked if they added language about the swale. Mr. Kops then referred to item 5F, which states: the owner shall have the open rock wall inspected and the swale cleared on an annual basis and a report should be provided to the Planning and Zoning Department. Mr. McEvovy stated that based on the recommendation of the geotechnical engineer, he is saying that the catchment area needs to be monitored and cleaned out regularly, but not the rockface itself.

Mr. Kops said that he interpreted that as the monitoring of the rock face comes first. Mr. McEvovy said that he is referring to the clear-out area here, and doesn't know that an annual report from the geotechnical engineer is needed.

Ms. Draughn added that they could put it in as a condition of approval, and that she would recommend that they did that. Mr. McDonagh asked if it was necessary to have a geotechnical engineer to do the inspection. Mr. Kops said that it's focused more on the debris that has already fallen, versus the rockface itself. Mr. Pellegrino said that the issue of the rockface and the slope isn't on the table, and it's more of ensuring that the area of where the rock may fall is maintained on a regular basis, which would be performed by the geotechnical engineer.

Ms. Draughn said that she thinks that the Commission should be concerned about risk. She added that if you have an opportunity to reduce the risk, and doesn't think that there is an enormous expense to have someone inspect it to ensure that there isn't any compromise to the rock. Ms. Draughn added that this can be done by using the money that will be saved by putting a chain link fence instead of a decorative fence.

Mr. Pellegrino said that based on recommendations from the professional that prepared the report, it might not be required. Mr. Pellegrino added that if there was an issue that was with the rockface, there would be a means to address that, but it doesn't appear at least in a professional's report and that all that would be needed would be an annual inspection.

Ms. Mastropetre said that as a compromise to leave in the annual maintenance, however, have a clause in there if the Town Planner sees fit to have this inspected, have them inspect it and provide a report, but not mandating it every year, but as necessary. Mr. Kops said that the problem with that is that it transfers the risk onto the Town Planner.

Mr. McDonagh said that he wants to do whatever is appropriate, and is not convinced that having an annual inspection by a geotechnical engineer is appropriate, because it will be after the fact a rock has fallen. Ms. Mastropetre said she's

looking for a compromise. Mr. McDonagh said that it sounds like the engineers are paying attention to what is going on, and doesn't know if a geotechnical engineer would help.

Ms. Mastropetre asked if a problem with the rockface occurs, would it be possible for the building official to close the building. Mr. Lee said that it would not be the building official. It would be the fire marshal. Mr. McDonagh said that an annual inspection will tell us if there more rock coming down then they were anticipating. Then they would inspect the cliff itself. Mr. Pellegrino said that an annual inspection report provided to the town also indicating what maintenance has been performed would give everyone information. Mr. Pellegrino said that the inspections for a nonissue could be expensive.

Chairman Poitier asked for comments in favor of this application. There were none. Chairman Poitier then asked for comments against the application. There were none.

The public hearing was closed.

## **B. Regular Meeting**

1. Major Amendment to Site Plan 12-1479  
55 West Woods Rd, MIH Zone  
Diverse changes, including landscaping, grading, fencing & interior walks  
West Woods Properties, LLC, Applicant

***Mr. McDonagh made a motion to approve with the modified conditions of approval. It was seconded by Ms. Mastropetere, and was approved, with one abstention from Mr. Stevens.***

The Conditions of Approval are as follows:

1. Within 90 calendar days of the date of this approval, the applicant must:
  - (a) Submit revised plans containing:
    - i. All Conditions of Approval.
  - (b) Provide a revised performance bond in an amount approved by the Town Planner and Town Engineer, if the Town Engineer determines any surety currently held is insufficient.
2. Prior to the issuance of a Zoning Permit the final plan shall be revised as follows:
  - (a) Include substitute plantings **and/or** in the rear of the building, in an amount and in locations to be approved by the Town Planner. Such plantings shall generally consist of low maintenance flowering perennials and shrubs having both ornamental and ecological values, including but not limited to providing forage and habitat for pollinators. The initial installation shall be allowed to naturalize and remain, without impacting the function of the required catchment and related storm drainage.
  - (b) Provide a detail of the proposed chain link fence for review and approval by the Town Planner, with such detail to include ornamental elements as part of the chain link fence.
3. Prior to and during fence installation:
  - (a) The owner shall field identify the property line adjacent to the fence by certified LS to A-2 standards. Such field identification shall be **certified by a licensed surveyor** and inspected by the Town Planner or his agent prior to the initiation of fence installation and a contemporaneous copy of the certified A-2 survey depicting the location of this property line, as well as the location of the adjacent (on site) grading, cut slope and "shelf" available for fence installation shall be provided to the Town Planner. No fence installation shall be initiated until these **surveys certifications** and field **inspections** have been reviewed and approved by the Town Planner or his agent.
  - (b) All work to install the fence shall take place from the owner's property and no encroachment shall occur onto or impact abutting land not controlled by the owner without the abutting owner's written consent.
  - (c) In the event the abutter provides his consent to allow use of his property for the fence installation, the scope of work for the fence installation shall be strictly limited to what is directly necessary for said installation and a written scope of work and plan shall be provided to the Town Planner, describing and depicting such proposed work. Such scope and plan shall be reviewed and approved by the Town Planner prior to the initiation of any related work.

4. During construction of the catchment area:
  - (a) The catchment area construction shall be monitored by the project PE and the Geotech, to insure that said installation is carried out in compliance with the approved design. As necessary and in order to meet other conditions of this approval, the LS shall document actual grading, slopes and spot elevations of the installation at a scale and level of detail sufficient to determine compliance with the approved design.
  - (b) No changes will be made to the catchment area design without the prior review and approval of the Town of Hamden Town Engineer, based on a formal written request by the project PE and Geotech. Said request must be accompanied at a minimum by a detailed narrative explaining the basis for the request, a PE and LS certified alternative, and a written certification from the Geotech that said alternative is acceptable to him.
5. Upon Project Completion:
  - (a) The owner shall make application for a Certificate of Zoning Compliance (CZC) and no Certificate of Occupancy shall be applied for until a CZC is issued under the Zoning Official's signature.
  - (b) The application for a CZC shall be accompanied by a PE and LS certified as built of site conditions, as well as a written certification by the project geotech that the final condition of the catchment area complies with his recommendations and any Town approved modifications, if applicable.
  - (c) The application for a CZC shall also include a statement from the project PE that the project been completed in accordance with the approved plans, or in the event it has not, the narrative shall identify any deviations from the approved plan and include a request for modifications. Any such requests shall be reviewed by staff and may be approved by the Town Planner as field modifications or through application for a Minor Amendment, based on the Town Planner's assessment of the requested changes.
  - (d) No Conditional or Temporary CZC shall be issued without an acceptable surety being provided to the Town Planner, in an amount and form acceptable to the Town.
  - (e) In the event a Conditional or Temporary CZC is issued, prior to the issuance of the final CZC, the owner shall provide the certified as-built necessary to document final acceptable completion of all required improvements.
  - (f) The owner shall have the open rock wall inspected and the swale cleared on an annual basis and a report shall be provided by the Planning and Zoning Department.**

2. Site Plan 20-1509,  
1312 Whitney Avenue,  
Convenience Store  
Bilal Mohammad, Applicant

This item was postponed.

3. 8-24 Review 20-414,  
370 Brooksvale Avenue Rear,  
Purchase of Open Space,  
Town of Hamden, Applicant

Mr. Begemann excused himself at this time. Mr. Kops read his report recommending that the Commission vote in favor of this purchase.

*Ms. Mastropetre made a motion to send a favorable report for the acquisition of 370 Brooksvale Avenue, Rear. It was seconded by Mr. Cocchiaro, and the vote was unanimous in favor.*

## **B. Old Business/ New Business**

1. Review minutes of the November 12, 2019 and January 28, 2020 Meeting

Ms. Mastropetre suggested tabling the minutes until the next meeting. It was moved by Mr. McDonagh. The vote was unanimous in favor.

*Ms. Mastropetre made a motion to approve the November 12, 2019 minutes. It was seconded by Mr. McDonagh. The vote was unanimous in favor.*

**C. Adjournment**

Mr. Cocchiaro made a motion to adjourn. Ms. Mastropetre seconded the motion. The vote was unanimous in favor. The meeting was adjourned at 8:07 p.m.

Submitted by: \_\_\_\_\_  
Natalie Barletta, Clerk of the Commission