



TOWN OF THOMPSON

Planning & Zoning Commission

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Minutes – PZC Subcommittee Meeting-Subdivision Regulations
Wednesday, April 6, 2022, 7:00 PM
ZOOM Meeting

p. 1 of 4

Tyra Penn-Gesek is inviting you to a scheduled Zoom meeting.

Topic: PZC Subdivision Regs Review
Time: Apr 6, 2022 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting
<https://us02web.zoom.us/j/89118483822?pwd=bGU2eWhTQ2hKQVlxK08wb1ZvLzc2dz09>
Meeting ID: 891 1848 3822
Passcode: 780646
One tap mobile
+13017158592,,89118483822#,,,,*780646# US (Washington DC)
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Zoom:
https://us02web.zoom.us/rec/share/8xjhU3inpwJuP3gJ96VtmPicb3KjZKv3N9Dj4H33Yz8yXu9aLZw-X_tBKOrx1_AS.Ycr3TtpSd1btGCNC?startTime=1649286006000
(Passcode: pmQUT.0R)

YouTube:
<https://www.youtube.com/watch?v=a4TwJrubP10>

1. Call to Order, Roll Call

Ray Williams	John Lenky	Alvan Hill
Jane Salce	John Rice	Dave Poplawski
Brian Santos	Randy Blackmer	

Absent: Charlene Langlois, Michael Krogul, Robert Werge Sr, Kies Orr
Staff Present: Tyra Penn-Gesek, Planner, Cindy Dunne, ZEO, Gloria Harvey, Recording Secretary
2. Discussion of Proposed Revisions to Subdivision Regulations

SECTION 8 – Bonding for Improvements

The applicant has the option of either constructing public improvements depicted on an approved plan or bonding public improvements. Such public improvements include proposed roads and drainage; improvements

Commented [MB1]: Deleted language mean no bonding for proposed road and drainage, only bonding for existing roads and drainage. Do not recommend proposed deletion.

T. Penn: good catch & will add back in.

to existing roads and drainage; erosion and sedimentation controls; utilities; rights-of-way and drainage (public or private); and other work necessary for public or private use such as open space, recreation, access roads or paths, lighting, fencing, etc.

1. Form of Surety

For the purposes of these regulations, the form of surety for a bond which may be provided and accepted by the Commission is as follows:

1. A bond together with:
 - a. The pledge of a passbook savings account;
 - b. A cash deposit with the Town of Thompson; or
 - c. A bond contract naming the developer as the Principal, the Town as the Obligee and a qualified insurance or surety company as Surety

~~A Certificate of Insurance for the developer naming Town of Thompson as an Additional Insured on a primary and non-contributory basis to all policies, except Workers Compensation.~~

2. Pledge of Savings Account

Bonds secured by a passbook savings account shall be accompanied by:

- a. A savings account passbook,
- b. A withdrawal slip in the amount of the bond properly endorsed and made payable to the Town of Thompson.
- c. A letter from the bank acknowledging that the account has been assigned to the Town for a period established for the construction or installation of the improvements plus one year.

3. Cash Deposit

Bonds secured by a cash deposit with the Town shall be treated as follows:

1. A certified check, cashier's check, or cash shall be delivered to the Treasurer of the Town of Thompson for the amount of the bond.
2. The Town shall deposit said sum in a specified and separate bank account earmarked by the name of the surety to the bond, in the name of the Town of Thompson. The deposit shall be in a savings account drawing standard short-term interest.
3. The deposit shall be in a savings account drawing standard interest.
4. The surety shall use his, her, or it's taxpayer I.D. number or Social Security number as the interest creditor for IRS and bank purposes.
5. Within 30 days of the release of the bond by the Commission the Town shall cause the account to be closed and the proceeds, plus interest less IRS deductions, to be paid to the surety.

4. Computations of Costs

- a. Prior the approval of any subdivision or resubdivision plan and before the filing of the approved or proceeding with any work, the subdivider shall review the scope of the road(s), public utilities, and services to be completed to fulfill the conditions of the plan (herein after referred to collectively as improvements) with the Commission.
- b. Using the subdivider's estimates of the cost of construction the Commission determine the type and amount of the surety to be furnished by the subdivider, in order to guarantee the completion of the

Commented [P2]: Compare with p 50/Section 10 – Bonding for public improvements (amended in 2019). Cindy will have a record of the minutes that made the amendment as well. FEB 2015 minutes.

B Santos brings up the need for General Liability Insurance as the actual needed document.

R Williams suggests going to the building office to clarify what they require for insurance requirements for their permits.

Poplawski & Rice & Santos agree that including proof of insurance should be referenced in the application requirements.

Santos also wonders why a payment bond is not referred to in combination with the performance bond.

Blackmer wants to know who we could pass this language to for confirmation that it meets all reasonable obligations. This sounds like a question for counsel.

Commented [MB3]: **Comment [P41]:** *This was suggested at the last discussion session; however, after a conversation with George O'Neil, who works in insurance, this is probably unnecessary, and wouldn't provide the additional security that was assumed.*

Note this language was not found in the current regs

Commented [MB4]: **Comment [P42]:** *Is this title correct? Shouldn't this be the Finance Director?*

John R thinks that it is the Treasurer who has the authority here (i.e. makes transactions with the bank). Check w/new Director. Blackmer leans toward agreeing with John R.

improvements.

- c. For subdivisions requiring more than three years to complete, the performance bond shall increase in the amount of five (5%) percent per year after the third year to compensate for inflation costs until improvements are completed.
- d. Building permits and associated certificates of occupancy for buildings within the subdivision shall be released on a case-by-case basis, based on whether certain required public improvements such as binder courses and drainage systems have been completed to an acceptable extent. Any such partial improvements must be approved by the Commission, following inspection and approval by the Director of Public Works. This partial acceptance would not relinquish responsibilities implied by these Regulations, nor does it reduce the bond. The bond remains in effect until all required improvements are completed

5. Partial Releases

When and if the Commission determines that a substantial portion of the improvements called for in the final plan approved by the Commission has been completed, it may recommend one or more partial releases of a portion of the security. The balance of the security at all times shall be sufficient to guarantee completion of all the remaining improvements. Such partial release shall be authorized by the Commission. Releases granted shall be in amounts in excess of \$10,000.00 (ten thousand dollars).

6. Failure to Complete Improvements

Where surety has been posted and required improvements have not been completed within the time required, the Commission may thereupon declare the subdivider to be in default and withdraw the total amount of surety from the pledged bank account and proceed to complete the improvements. All costs the Town may accrue in completing the work, including the value of the time of its public officials, employees, and attorney fees, shall be debited against the funds so withdrawn. If for some reason the security is insufficient to pay for all costs to the Town, the subdivider/owner shall remain liable for such costs in excess of the security.

7. Release of Surety

The surety shall not be released until the following conditions have been met:

- a. All improvements of the subdivision or resubdivision have been approved and/or accepted by the designated Town Official.
- b. All required monuments must have been set and a sworn affidavit filed by the land surveyor licensed by the State of Connecticut employed by the subdivider stating required monuments have been accurately set as required by these Regulations.
- c. The applicant's engineer or surveyor has certified to the Town through the Commission and through submission of detailed "as-built" plans, and the "As Built Certification Form" in Appendix C-1 that the improvements are in accordance with the construction plans of the subdivision or resubdivision. "As-built" plans shall include the site development plan, a grading plan, and a construction plan as described elsewhere in these Regulations. Such plans shall show any modifications or changes made including those made during construction.
- d. Warranty Deed for new streets and street stubs, also road frontage along existing Town roads where no street line had been established, must have been executed and delivered to the Selectmen with a copy to the Commission. Title to said roads shall be unencumbered.

Commented [MB5]: **Comment [P43]:** *Side note: Add checkbox to renewal form to review bond.*

What is the internal system that monitors the expiration date of the subdivision plan or the bond. ZEO to create a spreadsheet system with alerts for approaching dates.

Change note: follow up with permit link to add the subdivision process.

Poplawski question: IS the referenced 5% increase legal? What happens when inflation rates exceed the increase?

Commented [MB6]: Is "binder course" identified / defined elsewhere in the proposed regs?

Proposed simple definition would be the subbase to the finish course.

A course aggregate bound with bitumen between the foundation and the wearing course of an asphalt pavement (cf. M W)

Commented [MB7]: **Comment [P44]:** *Is there a way to spell out the various remedies the Town could pursue to recoup those expenses? Ask counsel for advice.*

Has this ever happened? It would be instructive to know what remedies may have been pursued.

John R: that is the point of having an appropriately determined bond amount, under the advice of DPW Director.

R Williams suggests adding language authorizing liens on on- site or abandoned equipment. Check on the legality of such a measure. J Rice points out that much construction equipment is leased not owned outright.

Commented [MB8]: This sub-section does not conform to outlining format - Should be G.1. not G.a.

Commented [MB9]: Capitalize regulations for consistency

Commented [P10]: Check citation

Commented [MB11]: **Comment [P45]:** *Add correct citation*

- e. The applicant shall file a written agreement executed by the owner of the premises and the applicant in a form approved by the Town Attorney, which permits the Town of Thompson or its officials and employees or independent contractors, to enter upon the premises and to perform any and all work necessary to correct and abate any violations of these Regulations, or any failure by the applicant to complete the actions of the accepted plan within the required time. Such right of entry shall be pursued upon the certification of such violation(s) by the Commission and shall continue for such time thereafter as is required for the Town to remedy such default.
- f. Any and all bonds with surety, agreements, deeds, or such other documents required by these Regulations shall be in such form as may be approved by the Town Attorney.
- g. The applicant shall be required to file a maintenance bond prior to dedication to the Town of public improvements in order to assure the satisfactory condition of the completed improvements following a period of one calendar year to correct any defects that may have developed during that period. The standards for maintenance bond are described in Article IV, Section 9 below.

Section 9 – Maintenance Bonding

- A. A maintenance bond, equal to twenty five percent (25%) of the cost of improvements accepted by the Town, will be held until April 30 of the year following the full calendar year after said acceptance following the release of a performance bond (or portion thereof) or Town acceptance of improvements. For example: if a project is completed on September 30, the acceptance shall be one calendar year from the completion date; and the bond may be released on April 30 after the full year has elapsed. The purpose of the maintenance bond is to protect the Town against defective workmanship, materials, or design of improvements.
- B. No performance bond shall be released until such time as said maintenance bond has been accepted by the Commission and posted with the Town.
- C. No maintenance bond shall be approved by the Commission unless said bond is in a form acceptable to the Commission. The Commission reserves the right to add conditions to the bond which it deems necessary to indemnify against defective workmanship, materials, or design of the improvements.
- D. The developer shall repair all defects in construction or operation during the period covered by the maintenance bond. The developer's failure to perform needed repairs within a reasonable time when so requested by the Commission, as advised by the Director of Public Works, may result in the Town's undertaking the repairs and billing the developer for any associated costs.
- E. No maintenance bond shall be released by the Commission until it has been in effect for a minimum of one year duration. The Commission shall release said bond only upon receipt of a favorable written report from the Director of Public Works or another qualified source retained by the Town to inspect all approved and required public improvements, indicating that all improvements are free of defective workmanship, materials, or design, or that any defects have been corrected to their satisfaction. This inspection is not intended to relieve the developer of liability for any cause of action arising from a covert or overt defect.

- 3. Adjournment
By Unanimous consent, the meeting adjourned at 8:53 pm.

Respectfully Submitted, Gloria Harvey, Recording Secretary

Commented [MB12]: Capitalize regulations

Commented [P13]: How do we further define the required time?

Suggestion: expand the description of phasing within the narrative...the applicant must supply a proposed schedule for completion.

Alvan suggests adding a requirement for the developer to report to the PZC at regular intervals (3 years to match the bond inflation benchmark)

Commented [P14]: Go back and look at the application requirements to make sure this language is consistent with the right of entry described in Article III. John wants to make sure that contractors are referenced in the earlier article.

Poplawski points out that the article III language refers to improvements, whereas this relates to violations.

Commented [MB15]: Capitalize regulations

Commented [MB16]: Of what Article for these Regulations??

Check Citation...Article IV Section 9?

Commented [MB17]: This language change should be reviewed by the Public Works Director and confirmed as an appropriate change.

Commented [MB18]: **Comment [P46]:** Calculated based on what?

Commented [MB19]: Was this moved to somewhere else??

T. Penn: Marla's comment refers to the previous Section 12 – Special Flood Hazard Areas & Floodways. It seemed more logical to include this with the section on Stormwater Management, so it is now included there.