

# TOWN OF DURHAM

**Planning and Zoning Commission**  
P.O. Box 428  
Durham, Connecticut 06422-0428

## **MINUTES OF JANUARY 4, 2006, MEETING** **Revised**

### Present

Members: Brian Ameche, Ralph Chase, George Eames, Richard Eriksen,  
Jim Kowolenko, Jan Melnik, Dian O'Neal, Tom Russell  
Town Planner: Geoffrey Colegrove  
Alternates: Frank DeFelice, Gene Riotte

### Absent

Member: Dave Foley  
Alternate: Jackie Snow

The meeting was called to order by George Eames, Chairman, at 7:30 p.m. Gene Riotte was seated on the Commission in Brian Ameche's place. Frank DeFelice was present, but unseated.

### 1. Approval of Agenda

Motion by Ralph Chase, seconded by Gene Riotte, to approve the agenda of the January 4, 2006, meeting as presented. Motion carried unanimously.

Brian Ameche was seated on the Commission at 7:35 p.m. Gene Riotte was reseated in Dave Foley's place.

### 2. Public Session

Cindy Turcik and Diana Cruise, both of Mountain Road, addressed the Commission regarding the continuing problems with the Greenland Realty operation on Mountain Road. Diana Cruise stated that the lights in the northeast corner of the building are still on all night nearly every night (an exception was this evening's meeting, perhaps coincidental). She stated that the property owner's attorney, Joan Molloy, had committed at two previous meetings, the most recent of which was

December 21, 2005, to ensuring that the problem would be remedied, but it has not been corrected. Further, the lights are aimed horizontally and are not the required downlighting.

Diana Cruise also reported that at 3:50 a.m. this day, drivers began to arrive at the site and then proceeded to leave with trucks between 4:30 and 5:00 a.m. She also reported that a “plow party” held over the long holiday weekend that went well into the evening with many plow trucks/lights at the site.

Motion by Richard Eriksen, seconded by Ralph Chase, to issue a cease and desist order and withdraw the temporary certificate of occupancy from Greenland Realty, Mountain Road, based on a violation of the resolution of lights at the northeast corner and nonconformance with the provisions of the original approval of the original site plan for a landscaping business. Motion carried unanimously.

### 3. Discussion of Possible Changes to the Designer Subdivision Regulations

The Commission reviewed the proposed language, which would increase the maximum number of lots in a designer subdivision from four to six with at least two of the lots being greater than three acres in size. There was considerable discussion over the easement required by the utility company with anywhere from an incremental 10 to up to 30 feet being actually required in some instances. There was also some dispute as to who has the right to do or require clearing within those easements (property owner or the utility company). Geoffrey Colegrove noted that the power companies do not look at maps until after subdivision approvals have been granted.

Brian Ameche stated that increasing the number of lots permitted in a designer subdivision from four to six makes more land in Durham developable. He pointed out that this might not be the goal of the Commission.

Frank DeFelice asked about the reason for the slope requirement being eliminated. He also stated that with Crooked Hill, there was concern with the grade and that was “only” a 12% slope (these regulations allow a grade of up to 14%).

Brian Ameche suggested that the Commission consider making all slope requirement maximums at 10 to 12% in the regulations. Tom Russell indicated that surrounding towns (naming Guilford, Madison, Killingworth, and Haddam) allow up to 15% if paved; he was not in agreement to changing this to 10 or 12%. Brian Ameche recommended that the Commission attempt to find towns that are limiting slopes to no more than 12% and try to work toward that, having discussion where there is disagreement.

Geoffrey Colegrove noted that such a policy could be considered confiscatory. Frank DeFelice added that a single-family lot is certainly different than a subdivision.

Richard Eriksen recommended that the Commission consider keeping the designer subdivision regulations just as they exist (capping the number at four), with consideration of special circumstances by special exception (as has been done in the past in at least two instances, including the Cox subdivision off Old Blue Hills Road, which was expanded to six lots).

Geoffrey Colegrove discussed paving and the desire to increase from perhaps 2" to 3" (this would be typical of two 1 ½-inch courses). He noted that Middlefield previously required 5", but that has decreased to 4", which is still near-highway grade.

Motion by Richard Eriksen, seconded by Ralph Chase, to retain existing designer subdivision regulations with the proviso that the Commission may consider exceptions by waiver. Motion carried unanimously.

#### 4. Greenland Realty, Additional Discussion

In revisiting the Greenland Realty situation, Brian Ameche recommended that the Commission request that its counsel, Attorney Thomas Byrne, review the complete record of the entire Greenland Realty pre-application discussion, application and hearing process, and all related discussions and formulate an opinion as to how the record deviates from the actual operations. He would like to see a report come back to the Commission from Attorney Byrne on this matter.

Brian Ameche also stated his clear recollection that the applicant for Greenland Realty had sought approval for a landscaping business; however, from visual evidence and longstanding testimony from neighbors, the business is clearly a trucking business, if not a waste transfer facility. He believes the Commission has been misled and would like to have the business operator cease all operations.

Frank DeFelice asked why the hours of operation for the business were not enforceable. Jan Melnik indicated that while there had been substantial discussion regarding hours of operation, these were not incorporated in the final motion of approval of the original site plan, nor were they incorporated on the site plan itself. Frank DeFelice stated his opinion that the discussion in the minutes and testimony during public hearing could be used to back up this as a requirement for the operation. Richard Eriksen concurred with this opinion.

Motion by Richard Eriksen, seconded by Brian Ameche, to assemble the complete record, including all minutes, tapes from public hearings, and all correspondence related to Greenland Realty (including any discussion or mention during regular meetings as well as public hearings), and provide it to Attorney Thomas Byrne for his review; this would be accompanied by a request to provide the Commission with an in-depth report. Motion carried unanimously.

#### 5. Discussion of PRD Zoning and Subdivision Regulations

Brian Ameche pointed out that the regulations, in section 12.05.01.01, do not allow crushing, screening, or processing of earth products, except in the Heavy Industrial zone. He suggested altering the language to read that a special exception permit be required for excavation and/or removal operations exceeding 1,000 cubic yards.

There was considerable discussion about a property owner's right to move material on his/her own property (i.e., to create an inground swimming pool, riding rink, etc.). The origin of the 1,000 cubic yard parameter relates to the creation of a foundation/basement.

Tom Russell asked for clarification—that a special exception permit would be required for movement of material on one's own property. Brian Ameche indicated that it was his belief that this could represent a nuisance to neighbors as well as possible degradation in property values; as such, a permit should be required.

Dian O'Neal was in agreement with Tom Russell, that she would be opposed to the idea recommended by Brian Ameche wherein a property owner's rights would be limited.

Motion by Brian Ameche, seconded by Richard Eriksen, to bring to public hearing the following change to the regulations, section 12.05.01.01, to clarify that it is "excavation and/or removal of more than 1,000 cubic yards of" before "sod, peat, et al" and to add to 12.05.01.03.03, "shall not be deemed to prohibit the transferal under 1,000 cubic yards of sod ..." Motion carried unanimously.

#### 6. Review of the Plan of Conservation and Development

Geoffrey Colegrove presented maps to the Commission of the area targeted for rezoning as Design Development District in the vicinity of Route 147. With input from town engineer Brian Curtis, several alternate means of access from Route 147 were presented.

The two subject parcels total about 70 acres in size: Twin Pine Farms (about 25 acres; owners initially not interested based on sentiment-testing approximately five years ago) and the Prue/Gastler property (about 44 acres; this estate has not yet been settled. The attorney for the estate, John Corona, has suggested that there may be possible interest in some beneficiaries of the estate retaining some frontage along Route 147 with several Farm-Residential lots in the front and rezoning to Design Development District in the rear). There is no current sensing of how the present property owners of either parcel would respond to a proposed zone change.

Rick Hanley, Chairman of the Economic Development Commission, was in attendance and stated that this is an area that the Commission is keenly interested in exploring. He stated the obvious points that Durham has little land that can be developed in Commercial, Heavy Industrial, Light Industrial, or Design Development District zones. As such, this would be highly desirable.

Most members of the Commission were in agreement that it makes sense to pursue this as aggressively (and sensitively) as possible—it is likely that if nothing is done, in 10, 15, or 20 years, the land could all go to Farm-Residential development. There was also some discussion of the Gastler-owned property immediately across the property that is being discussed along Route 147. There are at least two already approved Farm-Residential lots; however, Richard Eriksen pointed out that these are likely to become a liability for the Town of Durham because of the existence of the leachate plume.

It was agreed that the Commission would schedule an informal workshop for about one hour on the agenda of the February 1, 2006, meeting agenda and invite the landowners, the Board of Selectmen, and members of the Economic Development Commission.

#### 7. Payment of Bill

Motion by Ralph Chase, seconded by Jim Kowolenko, to approve payment of the following bill:

- Absolute Advantage, J. Melnik - \$570.30 ( minutes, December 23, 2005)

Motion carried, 8-1, with all in favor with the exception of Jan Melnik (in abstention).

8. Approval of Minutes

Approval of the minutes of the December 21, 2005, meeting was tabled until the January 18, 2006, meeting.

9. Town Planner's Report

Geoffrey Colegrove indicated that the Commission's legal budget was in the red; not factoring into account approved expenses in December, the balance is negative \$2,649 as of December 16. With anticipated appeals from several recently decided applications, he recommended that the account be increased by an additional \$20,000 and will suggest this to the Board of Finance/bookkeeper.

10. Miscellaneous

Brian Ameche asked that Geoffrey Colegrove provide to the Commission mapping and a full list of town roads of questionable status, possibly targeted for abandonment, etc. at the next meeting. Geoffrey Colegrove indicated that he had discussed this with First Selectman, Jim McLaughlin, who was not particularly interested in moving forward with any action to discontinue/abandon any town roads. However, Brian Ameche stated that it should be the Planning and Zoning Commission that determines what would or would not be appropriate for consideration for abandonment. Richard Eriksen concurred, adding that the town could face tremendous liability. The town should not be paying the road development costs for some "town roads" to support development.

Motion by Ralph Chase, seconded by Jim Kowolenko, to adjourn the meeting at 9:40 p.m.  
Motion carried unanimously.

Respectfully submitted,

Jan Melnik

1/6/2006