

TOWN OF DURHAM

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

MINUTES OF NOVEMBER 2, 2005, MEETING

Present

Members: Brian Ameche, George Eames, Richard Eriksen, Dave Foley,
Jim Kowolenko, Jan Melnik, Jackie Snow
Town Planner: Geoffrey Colegrove
Alternates: Ralph Chase, Gene Riotte

Absent

Members: Al Bradanini, Dian O Neal
Alternate: Frank DeFelice

The meeting was called to order by George Eames, Chairman, at 7:30 p.m. Ralph Chase was seated on the Commission in Al Bradanini's place. Gene Riotte was seated on the Commission in Dian O Neal's place.

1. Approval of Agenda

Motion by Ralph Chase, seconded by Jackie Snow, to approve the agenda of the November 2, 2005, meeting as amended to include discussion of M&M Auto, Route 17 (14a) and the Smith lot, New Haven Road, 29 acres, discussion (14b). Motion carried unanimously.

2. Public Session

No business.

3. Greenland Realty, Update of Progress, 10 Mountain Road

Attorney Joan Molloy addressed the Commission on behalf of the applicant. She indicated that there had been substantial progress on the site since the time of the last meeting. While she was not certain as to the current status of the stockade fence, she knew that installation was nearly complete.

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She stated that pipe had been delivered by the town; the applicant has plans of making installation on Saturday, November 5. This must be completed before paving can occur. Paving will be completed by November 30.

George Eames referenced the recent site visit by the Commission and the fact that Commissioners were satisfied that most everything had been taken care of as discussed. Geoffrey Colegrove advised that the stockade fencing had been completed. He had signed a temporary C.O. for the applicant.

A letter was presented to the Commission by Diana Cruise from Attorney Joseph Milardo; he is representing the Cruises on the matter of tree plantings that was stipulated during the August 6, 2003, meeting of the Planning and Zoning Commission. Discussion followed regarding whether the Commission would have their attorney, Tom Byrne, review this matter or suggest that the Cruises and Attorney Joan Molloy work it out as a private matter.

Attorney Molloy suggested that the Commission not become involved in a private matter between parties. She added that there was some conflict in the minutes regarding the planting of trees and that she was not in a position to state that the applicant would install trees on the Cruises' property.

Richard Eriksen indicated that he was clear in his recollection that the applicant had indeed agreed to the planting of trees on the front of the Cruises' property. He saw no reason to incur the expense of having counsel review the matter, stating that it would be a 'waste of taxpayers' money to get a legal opinion. He added that it was a condition of approval and that the Commission should insist that the work be done. He further suggested that the conditional C.O. be withdrawn. Conditions have not been met and the good faith of the Commission has been abused.

Motion by Richard Eriksen, seconded by Brian Ameche, to withdraw the conditional certificate of occupancy for Greenland Realty until such time as the applicant is in compliance with the approved site plan and with all conditions of approval. Motion carried unanimously.

4. Cuomo Construction, Request for Release of Maintenance Bond, Sycamore Drive

Tony Cuomo addressed the Commission, stating that all work on Sycamore Drive was complete 18 months ago; there are no outstanding issues. Geoffrey Colegrove indicated that he was aware of no outstanding issues either; a request was made to Kurt Bober to perform an inspection. There has been no response yet. A conditional approval was suggested.

Motion by Jan Melnik, seconded by Ralph Chase, to return the maintenance bond for Sycamore Drive to Anthony Cuomo, Cuomo Construction, pending approval of the town road foreman, Kurt Bober. Motion carried unanimously.

5. Maria Ward, Interpretation of Permitted Uses in the Design Development District

Maria Ward addressed the Commission. She is planning to locate a hair salon on Ozick Drive off Route 68. The business would be located in a building owned by Jack Ozick opposite the day care facility. She queried if this operation would conform with the Design Development District requirements. There would be no retail sales other than the ancillary sales of supplies.

Geoffrey Colegrove stated that no more than 25% of the aggregate area (entire square footage of buildings in the district) could be used for shops-stores-service establishments. While it would not be easy for the Commission to keep track of these usages, at this point, her 900 square-foot facility would be clearly under the 25% aggregate.

Maria Ward indicated that the town sanitarian, Bill Milardo, had approved the septic system. George Eames asked Maria Ward to have Bill Milardo forward a copy of the letter to the Planning and Zoning Commission. Richard Eriksen indicated that the business, as proposed, would appear to be an approved activity.

Dave Foley asked about the plans for signage (especially with the proliferation of signs at the corner of Ozick Drive and Route 68). Although there was some discussion about Jack Ozick pursuing a common sign listing all properties at that location, nothing has happened. Dave Foley made clear that an additional, free-standing sign for the hair salon would not be permitted.

6. M&M Ventures, Route 17

Attorney John Corona addressed the Commission. He stated that the applicant has decided not to go forward with the site plan change discussed at the last meeting. Instead, a different approach is being pursued. Pat Benjamin, the project engineer, proposed what he described as a more pleasing design aesthetically for the Commission's consideration.

Instead of accessing from Parsons Lane, the business will share access with the already existing drive serving the house on the property. Good lines of sight are available. The platform itself will be lowered about five feet. Pat Benjamin described the cuts and fills that will be necessary; all material will stay on the site. The house will still be rented; this is permissible to have shared access and multiple buildings on the property.

To a question regarding the plantings on the north side of the site, Pat Benjamin indicated that these could be moved to the northwest side of the site. Richard Eriksen asked that the plantings be extended halfway down the north side of the property line.

Motion by Richard Eriksen, seconded by Ralph Chase, to approve the modified site plan of M&M Ventures, Route 17, with additional plantings incorporated to the north side of the site, change in access to Route 17 (not Parsons Lane), lowering of the site by 5 feet, and submittal of a new site plan with all changes by November 30, 2005. Motion carried unanimously.

Motion by Dave Foley, seconded by Ralph Chase, to recess the regular meeting for the public hearing at 8:08 p.m. Motion carried unanimously.

PUBLIC HEARING

1. Applicant/Owner: Glen Yates
Location: 171R Harvey Road
Application: Request for a Special Permit for an Accessory Apartment

Members: Brian Ameche, George Eames, Richard Eriksen, Dave Foley,
Jim Kowolenko, Jan Melnik, Jackie Snow
Town Planner: Geoffrey Colegrove
Alternates: Ralph Chase, Gene Riotte

Chairman George Eames read the call for the continued Public Hearing from the Legal Notice. Attendance was taken and all members present were seated on the Commission. Ralph Chase was seated on the Commission in Al Bradanini's place. Gene Riotte was seated on the Commission in Dian O Neal's place.

Glen Yates addressed the Commission. He is planning to create an accessory apartment in a 1,000 square-foot area over the garage; the house itself is 4,000 square feet in size. The property is about 22 acres. The garage is constructed with 5/8-inch sheetrock that meets fire code for residential purposes. The building official has inspected the house and determined it meets all requirements of the state. Bill Milardo, town sanitarian, has indicated that the site is approved for up to four bedrooms (three in the house and one in the accessory apartment).

There was no public comment. Letters were presented from neighbors (Bob Poliner, Ray and Sandi Kalinowski) in opposition to the accessory apartment at the last public hearing. The primary concern was a change in the residential character of the area. One neighbor, John Gudelski, already has an accessory apartment adjacent to his home.

The regulations do allow accessory apartments as long as the space restrictions are met and the owner of the house resides in the house. Should the property be sold, a new occupant would need to make application for an accessory apartment. The permit also needs renewal every five years.

Motion by Ralph Chase, seconded by Dave Foley, to close the public hearing on the request for a special permit for an accessory apartment at 171R Harvey Road; applicant/owner: Glen Yates. Motion carried unanimously.

Motion by Ralph Chase, seconded by Jan Melnik, to reconvene the regular meeting at 8:15 p.m. Motion carried unanimously.

7. Glen Yates, Application for an Accessory Apartment

Motion by Jan Melnik, seconded by Ralph Chase, to approve an application for an accessory apartment, Glen Yates, 171R Harvey Road. Motion carried unanimously.

8. Catherine Smith Parcel, Route 17

The purchase of the 29-acre parcel by the town was approved a number of weeks ago. This acreage is to be severed from a two-acre parcel owned by the Smith family.

The 29.3 acres will join 85 acres owned by the town of Durham with frontage on two other roads (David Road and Saw Mill Road). The 2.63 acres on James Road East being retained by Ms. Smith will be kept as an approved building lot; it is adjacent to the Washington Heights subdivision.

The Conservation Commission will review this at their November 8 meeting.

Motion by Richard Eriksen, seconded by Dave Foley, to approve a separation of 2.63 acres, Lot 22, Washington Heights subdivision, owned by Ms. Catherine Smith from approximately 29 acres, thereby rescinding original decision of the Commission to combine two lots subject to the successful sale/acquisition of the 29 acres into open space by the town of Durham. Motion carried unanimously.

9. United Concrete, Site Plan Review for Atlas Concrete Site, Route #68

Attorney John Corona addressed the Commission and introduced the project engineer, Pat Benjamin, on behalf of the applicant. This is the existing site of the former Atlas Concrete (Pat DiNatale) business. The use will remain identical to the former use. However, changes to the buildings and configuration on site are being sought to make the property more functional.

The site itself is 6.65 acres in the heavy industrial zone. Changes to the existing building will allow for off-loading of material as well as location of the tower itself within the structure. The external tower will be removed. The building will be 60 feet in height; the current building is 40-45 feet. This is permitted in the zone (towers up to 100 feet are permitted, if necessary).

The same steel material will be used for the expansion of the building. The septic system, sized for 25 people, will more than accommodate the five employees. Full cut-off lights will be used on the building. The front of the site will feature a double row of white pines 150 feet across the front of the building.

There will be no vehicle maintenance on the site; several pieces of equipment on site do require maintenance there at the site.

It was agreed that if the minimal lights, as proposed, prove inadequate, the applicant will revisit the Commission for more leniency. The facility will be gated at night.

To Richard Eriksen's query regarding materials left on the site, Pat Benjamin stated that Pat DiNatale had cleaned the site before vacating it. Jersey barriers have been removed.

Motion by Richard Eriksen, seconded by Ralph Chase, to approve the modifications to the site plan for United Concrete, Rt. 68, John Gavin, conditioned upon approval from the Inland Wetlands Commission. Motion carried unanimously.

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10. Payment of Bills

Motion by Ralph Chase, seconded by Gene Riotte, to approve payment of the following bills:

Absolute Advantage J. Melnik - \$85.69 (minutes Oct. 28, 2005)

Absolute Advantage J. Melnik - \$468.78 (minutes Oct. 5, 2005)

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

11. Approval of Minutes

Motion by Ralph Chase, seconded by Jim Kowolenko, to approve minutes of the October 19, 2005, meeting as presented. Motion carried, 7-2, with all in favor with the exception of Brian Ameche and Jan Melnik (in abstention).

12. Town Planner s Report

Geoffrey Colegrove advised that Brian Esparro on Bailey Road, appears to be gearing up for the snow plow season. There are six vehicles on site, including a derelict snow plow. There is also some question of discharge to neighboring parcels, including possible wetlands contamination. This should be referred to the DEP. Adjacent neighbors have been provided with this recommendation.

Geoffrey Colegrove stated that the town of Durham would not be participating financially in any reconstruction of the road (Crooked Hill) being pursued for possible use by the Northern Heights subdivision. Any road construction would need to conform to town specifications. This project, if it advances, would need to come before the Planning and Zoning Commission for an 8-24 review.

The town of Guilford has gone on record that it will be the first responder to any emergency services required within the subdivision.

George Eames read into the record a letter from Ralph Durante regarding the proposed project for the former Durham Rod and Gun Club property. It is anticipated that this project will come before the Commission in the November-December timeframe. Use of the clubhouse by seniors is still being considered.

Dave Foley stated that a recent agenda of the Zoning Board of Appeals indicated request for a waiver to permit a two-family house on a 1.22-acre parcel (a minimum of four acres is required). The house has been a three-family house; the owner now wants to legitimize a two-family structure. No permits were taken out. The house is in violation of the zoning regulations. At most it could be a one-family house with an accessory apartment. Dave Foley wanted to be on the record with his opinion of opposition to this request.

Motion by Dave Foley, seconded by Ralph Chase, for the Planning and Zoning Commission to send a letter to the Zoning Board of Appeals opposing the application of D. Stephan, 336 Haddam Quarter Road, 2.78 acre minimum lot area variance and a 35.2 minimum lot width at minimum front yard variance on basis that it is a violation of the four-acre minimum zoning required for a two-family house and the request is for far too great a variance. Motion carried unanimously.

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Gene Riotte will attend the November 10 meeting of the Zoning Board of Appeals; Geoffrey Colegrove will prepare and send a letter.

George Eames read into the record a letter from Jennifer Zettergren regarding the driveway curbing problem at her property on 500 Powder Hill Road. Promises have been made and not kept by the developer; catch basins were initially installed at the wrong height. There have been discussions involving First Selectwoman Maryann Boord and the possibility of using bond monies posted by the developer to handle the work.

Motion by Ralph Chase, seconded by Dave Foley, to adjourn at 9:20 p.m. Motion carried unanimously.

Respectfully submitted,

Jan Melnik
11/15/2005