

TOWN OF DURHAM

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

MINUTES OF FEBRUARY 1, 2006, MEETING

Present

Members: Brian Ameche, Ralph Chase, George Eames, Richard Eriksen, Dave Foley,
Jim Kowolenko, Jan Melnik, Dian O'Neal, Tom Russell
Town Planner: Geoffrey Colegrove
Alternates: Frank DeFelice, Gene Riotte, 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 and Jackie Snow were present, but unseated.

1. Approval of Agenda

Motion by Ralph Chase, seconded by Jan Melnik, to approve the agenda of the February 1, 2006, meeting as presented. Motion carried unanimously.

2. Public Session

Dave Dingwell advised the Commission that the situation was "business as usual" in the matter of Greenland Realty on Old Mountain Road.

3. Hanna Enterprises, LLC, Request for Modification to Special Permit for Gasoline Dispensing Facilities, 1051 New Haven Road

Attorney John Corona addressed the Commission on behalf of the applicant. A modification to the previously denied plans provides for essentially the same proposed gas-dispensing facilities, minus the overhead canopy.

A question before the Commission was whether or not, because this was a modification to an existing special permit, an application would need to go to the Inland Wetlands Commission (given the approval was granted previously for an identical activity). At issue is the fact that the

Inland Wetlands Commission previously granted approval contingent upon the Planning and Zoning Commission also granting approval. Since the original application was subsequently denied by the Planning and Zoning Commission, what then becomes the status of the contingent approval of the Inland Wetlands Commission?

Attorney Corona explained that the application was fundamentally the same as the previous one. Besides the removal of the canopy, buffering has also been enhanced in the area at the front/southerly end of the property. All else remains the same, including location of the proposed pumps.

Richard Eriksen indicated that the Inland Wetlands Commission had previously deferred a decision (contingent upon the actions of the Planning and Zoning Commission) because of the gas pumps and the blacktop area being expanded into the filled-in wetlands on the site.

Attorney Corona stated his opinion that if the activity is the same from one application to another and the Inland Wetlands Commission initially approved the activity, then it doesn't need to weigh in on a subsequent application for the same activity.

There was not consensus among the Commission as to whether this would represent a new application or not. Geoffrey Colegrove indicated that with a subdivision denial, an applicant can reapply within six months. However, the same parameters don't exist here; in other words, there is apparently no statutory timetable for reapplication to modify an existing special permit.

The original matter (denial by the Planning and Zoning Commission) is currently in court.

Richard Eriksen requested that Attorney Tom Byrne be approached for a decision on whether or not the Commission can consider this application at this time.

4. Silver Eagle Development Trust, LLC, Informal Discussion of Possible Commercial Development, CT Route 17 and Middlefield Road

Attorney John Corona addressed the Commission regarding the parcel of land, formerly owned by the Arrigoni family and recently acquired by the Silver Eagle Development Trust, LLC, at the north end of Route 17 and Middlefield Road. There are aspirations to move forward with the development of the site.

The Commission had previously approved a 25,000 square foot commercial activity (two separate buildings) on the site with driveways onto both Route 17 and Middlefield Road. His client is aware that the Commission subsequently established a cap of 40,000 square feet for any single building; however, Attorney Corona stated his understanding that this was not necessarily cast in stone and that it might be feasible to seek a waiver or modification in this limitation to allow something somewhat larger if the proposal is appropriate for a particular site. His fundamental question to the Commission was whether or not it would deem this particular site suitable and appropriate for a large grocery store—in particular, one of approximately 55,000 square feet in size.

George Eames indicated that as far as he was concerned, the limitation was a maximum of 40,000 square feet, as set in the regulations. Richard Eriksen noted that one of the provisions the Commission made at the time that the 40,000 square foot cap was enacted was the requirement

that an applicant present a complete plan (before any decision was rendered) to include not only the proposed use, but the actual plans for the structure(s), driveway, buffering, traffic, parking, and other related details for the Commission's consideration.

Attorney Corona stated that his client wasn't seeking a carte blanche decision; rather, the client was hoping for a sense as to whether or not the Commission would be amenable to possibly considering such a development on this 11.25-acre site. He noted that there are few properties in town that could support such a grocery store (the only other one that was mentioned in the past was possible development along the southerly end of Route 17 near the Route 79 intersection [Dahlmeyer property]). He stated that development costs for planning only could run as high as \$100,000 and require several years. If the Commission would not even contemplate such a thing, there'd be no point in the applicant attempting to pursue this.

Attorney Corona also referenced previous Commission meeting minutes in which it was suggested that the Commission might consider "the right proposal for the right building in the right spot."

Dian O'Neal stated her impression that a 55,000 square foot building would "resemble an elephant" in that location. Jan Melnik stated that without parking details and traffic considerations addressed, it would not really be possible to evaluate a theoretical concept.

Richard Eriksen commented that this area is one of the few undeveloped commercial sites in town—the town should carefully consider what happens here. Frank DeFelice noted that the demands on both Route 17 and Route 147 must be considered from a public safety standpoint.

Attorney Corona stated that other possible development of the site could easily exceed what demands this possibly proposed use (55,000 square foot grocery store) would have. In other words, beyond the two approved buildings totaling 25,000 square feet, there could be applications for additional structures and related parking. Dave Foley concurred, noting that based on the overall lot size, up to 100,000 square feet of construction could occur on the site (25% maximum building coverage; 60% maximum coverage that would also include parking and other impervious surfaces).

It was noted that while the zoning regulations can't be waived, the regulation can be amended with the Commission's approval.

Attorney Corona stated that if the Commission were amenable to considering such a text amendment, he would propose very narrow language to allow just this type of use and prevent any exploitation.

At this point, the regular meeting recessed for the 8:00 p.m. workshop.

Workshop: Proposal to Change Approximately 69 Acres of Land on the East Side of Middlefield Road from Farm-Residential to Design Development (which is an Industrial/Limited Commercial District)

George Eames indicated that this exploratory workshop was being held to discuss possible options with all property owners, neighbors, abutters, and interested residents of town.

He further pointed out that nothing was binding. Rather, the Commission was exploring something that had been discussed in the town's plan of conservation and development.

Town planner Geoffrey Colegrove made a presentation, augmented with input from the town engineer, Brian Curtis.

There are currently two parcels, one about 44 acres in size, the other is nearly 25 acres in size. The property is located along Route 147 on the east side and is currently Farm-Residential.

During the 1981 creation of the plan of conservation and development, this area was identified for possible consideration as Design Development District rezoning as it is adjacent to the surrounding Middlefield commercial/light industrial area, the landfill, and areas of light industrial activity to the east (in the direction of Route 17). The property itself abuts a state highway and has good soils.

Brian Curtis noted several different ways by which the parcel could be developed. This might even include retaining some Farm-Residential lots along the front (for possible development/use by family members) with the interior of the site being rezoned. The interior could connect to Indian Trail totally internally—or be brought out to Route 147 with a new drive. Previous discussions between then Durham First Selectman Ray Kalinowski and the property owners did not advance; at that time, there was some discussion with then Middlefield First Selectman Charlie Augur. However, there was no decision as to whether or not access from Indian Trail would be feasible.

It was clarified that what was being discussed was a possible zone change (and not acquisition of the properties by the town).

Various concerns about Route 147 were discussed—the road twists and turns and, from the corner by the Willett's home to the point past where a possible access from the property out to Route 147 exists, the posted speed limit ranges from about 15 to 40 mph further into Middlefield. Line of sight is quite adequate in both directions from a possible access into the area. Brian Curtis noted that the road could accommodate the larger truck traffic inherent with the change of zone.

Frank DeFelice noted that a large radius would be necessary on the access road itself (to avoid truck traffic crossing an opposing lane when turning onto Route 147).

Members of the public spoke. Walter Cavanaugh, the son-in-law of Bernie Prue, addressed the Commission, stating the difficulty that is experienced when trying to pull out onto Route 147 from the house at Twin Pines.

Several residents discussed the number of serious accidents occurring presently at the sharp corner by the Willett's home.

Tim Gastler asked for clarification of what a zone change might mean, in particular, if a change to Design Development would prohibit residential construction. Geoffrey Colegrove indicated that this would be the case: residential development is not allowed in a Design Development zone. However, he also pointed out that there was awareness of the interest among some members of the Gastler family to perhaps break off several parcels along Route 147 for possible

Farm-Residential uses. This is a plan that could be considered (with the interior of the overall 70± acres going to Design Development District). It was further noted that residential uses are not allowed in Commercial, Heavy Industrial, Light Industrial, or Design Development District zones.

If road access did not connect out to Route 147 but, rather, came in off Indian Trail, this would help to eliminate the possible traffic concern.

Geoffrey Colegrove clarified that the Design Development District requires a minimum of two acres per business; as a practical matter (because of topography, wetlands, etc.), most lots end up being 3 to 4 acres in size within the Design Development District.

To queries as to why this idea was being pursued, George Eames noted that such development would provide greater tax revenues back to the town with reduced need for services (i.e., the tax base would increase without a commensurate increase in need for services because students would be added to the school system).

It was again reiterated that the town is not proposing to acquire the property or develop it; any developer for the site would have to construct the roadway system. This is not to say that the town might not be interested in pursuing development (there is just no representation of any interest at this point).

Bernadette Prue asked if there had been any interest expressed by companies or people about putting in certain industrial uses in this area. There has not yet been any representation of interest that anyone is aware of; however, most of the remaining commercial/industrial space in town has been built out over the past 20 years. Geoffrey Colegrove referenced the development along Commerce Circle, Skeetclub Road, and Ozick Drive. The Commission's hope was to define possible areas for future Commercial/Design Development growth that would be appropriate for the town.

The property owners expressed concern with the possible outcome of a change of zoning to Design Development District—and then there not being a buyer readily available for perhaps a number of years (as compared with Farm-Residential development where they could potentially sell off a few lots at a time). George Eames noted that certainly some land could be preserved and set aside as Farm-Residential.

Allan Patterson commented that he was not pleased with the idea of placing “a factory” in his backyard or having many trucks in that area. He noted the presence of deer in the fields.

Russ Eick mentioned that his waterflow, as well as that to surrounding wells, had been sharply reduced following the development of the Middlefield Industrial Park.

Several residents asked for a greater period of notice about any upcoming meetings or workshops on this topic (noting that one week of notice was inadequate).

Marianne Corona addressed the Commission. She urged the Commission to carefully consider pursuing connection to Indian Trail and asked that members discuss possibilities with the town of Middlefield. She cited the number of accidents at the intersection of Cherry Hill and Route 147.

Richard Hanley, Chairman of the Economic Development Commission, described a proclamation reached by the EDC at its January 24, 2006, meeting. The EDC supports the efforts of the Planning and Zoning Commission to change the zone for the 69 acres of land on the east side of Middlefield Road. He stated that the high percentage of residential land and open space in town leaves little left for non-residential purposes. It is a benefit to all of Durham's residents to add to the tax base and provide the possibility of employment. He noted that although the taxes from new residences are typically high, they don't begin to cover the costs of educating children that are frequently living in those homes. He distributed information from the American Farmland Trust that when compared to a dollar of tax revenue collected, \$1.07 is necessary to maintain public services, but only .27 for commercial/industrial purposes (and .23 for open space).

To questions regarding timeframe, George Eames indicated that no schedule had been developed. This exploratory session was to see if there was input from landowners and how the Commission might approach a possible zone change. If this were determined to be an appropriate course of action to pursue, public hearings would be scheduled with neighbors properly noticed in advance.

To Bernadette Prue's question regarding the likely action of the Commission if a subdivision proposal were developed by the landowners, George Eames indicated that the Commission would accept and review any proposal; no rights are being taken away and no change has occurred at this time.

Marianne Corona asked if the zoning were to change, would land protected as far as taxes are concerned under the provisions of 490 remain intact? This would be the case.

Karen Kalandyk stated that she had moved from Wallingford to Durham in 1994 to get away from overcrowding. She expressed concern with the devaluation of properties in that area if the proposed zone change took place. She also noted that she is "not costing the town anything" (stating she doesn't have children and uses the library as the only public service).

Russ Eick noted potential concerns with pollution from a possible factory. George Eames pointed out that there is careful engineering today, with requirements and regulations on both local and state levels.

Walter Cavanaugh asked if anyone had figured out the amount of industry leaving the state of Connecticut (i.e., was there actually demand for this land). George Eames noted that while the town cannot offer industry public water and sewer, there are other possible advantages.

Geoffrey Colegrove stated that the plan of conservation and development does look at all housing across the town (including empty nesters, houses with children, etc.). Residents don't necessarily stay in town forever; a family might move to town, raise their kids, then sell their house to another family with kids. This parcel represents an ideal opportunity, given proximity to a state highway. There is the possibility of considering a broadening in the regulations to allow such uses as professional office buildings on state highways that might be discussed.

The Commission is attempting to look at a number of options to try to reduce the overall dependence on residential taxes and attract commercial/industrial uses in appropriate areas. Despite a lack of certain services, Durham is an attractive town (some companies have even mentioned that locating here is an appeal because of the ability for employees to 'have lunch in a

rural environment’). The Commission is making an attempt to balance everyone’s interests while minimizing tax increases. There are no easy answers.

It was also stated that while residential development may represent the highest and best use of a particular parcel of property in the perspective of the property owners (i.e., the subject property being discussed), this does not necessarily make it in the best long-term interests of the town itself.

Rich Hanley noted the difficult spiral: the more residents, the more students ... the more schools, the larger the property taxes. Taxes in Durham alone have increased more than 125% in the last 10 years.

Bernadette Prue mentioned the drainage problems that could exist with an industrial use on the hill, citing past problems from the nursery operation and the need for a swale. Marianne Corona added that she could not imagine a worse place for a new road to access Route 147 than in the area that is being conceptually proposed.

Tim Gastler stated that he hoped to farm his property “forever” and that he has a daughter who is also interested in farming.

To neighbors’ questions regarding the Commission’s possible actions, George Eames indicated that if all neighbors were in opposition to the proposed idea, he believed the Commission wouldn’t pursue it.

Richard Eriksen stated that if the process were to move forward, there would be a public hearing at which residents would appear. If their answer was ‘no’ on the proposal, this would be part of the record and process. The Commission is not looking to industrialize the town; rather, this is simply a workshop. He noted that at many other meetings, the Commission listens regularly to complaints from residents about the increasing taxes and their desire for more industrial/commercial land.

First Selectman Jim McLaughlin addressed the public and the Commission. He rhetorically asked if there was anyone present who felt their taxes were not high enough (to which, of course, there was no reply). He applauded the Commission for exploring this topic and seeking public input. He suggested that everyone who is unhappy with the way education is currently funded contact their state representative, senator, governor, et al—imploing them to seek alternative means of funding.

Dave Foley suggested that access to the parcel being discussed be considered from Route 17 instead of Route 147.

Geoffrey Colegrove stated that any future meetings would be properly noticed, with information mailed to all surrounding residents in advance.

Following the close of the workshop, Brian Ameche was seated on the Commission (8:30 p.m.); Gene Riotte was unseated.

5. Discussion of Unimproved Town Roads

The Commission discussed the status of unimproved town roads. It was agreed that it would be unwieldy to try to handle proposed discontinuance of them all at one time. Richard Eriksen volunteered to head up a task force to explore proposal of discontinuance for several of these roads. Geoffrey Colegrove will develop maps for further review. At the top of the list might be several that could be considered to be non-controversial (i.e., Seward Road, the town-owned road adjacent to a Cuomo development, and Spruce Hollow Road).

6. Payment of Bills

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

- Attorney Thomas Byrne - \$2,375.00 (Esparo case)
- Absolute Advantage, J. Melnik - \$361.06 (minutes, January 18, 2006)

Motion carried, 7-1, with all in favor with the exception of Jan Melnik (in abstention).

7. Approval of Minutes

Motion by Dave Foley, seconded by Ralph Chase, to approve the minutes of January 18, 2006, as submitted. Motion carried, 8-1, with all in favor with the exception of Jan Melnik (in abstention).

8. Miscellaneous

Geoffrey Colegrove indicated that the Esparo case was ongoing.

In terms of Greenland Realty, Jan Melnik is presently preparing the transcripts of the recent public hearings for review by Attorney Tom Byrne. Geoffrey Colegrove distributed copies of all minutes referencing the Greenland property over the past few years. Jan Melnik had further researched minutes dating from 2000 to 2003 and provided a set of originals to Geoffrey Colegrove; Commission members will receive copies of these as well. She noted that in the older public hearings in the 2000-2003 timeframe, hours of operation and characterization of a landscaping operation were evident.

George Eames asked for the Commission to reconsider something raised a number of years ago, possible application of a Village District.

Brian Ameche indicated that this designation includes and protects very specific attributes and nontangible characteristics of a neighborhood. Things such as house color can be regulated. A Village District allows the ability to more thoroughly manage within a zone than can be accomplished through either Planning and Zoning or a Historic District Commission. Legislation about village districts was passed in Connecticut about four years ago. There are several in place in the Litchfield county area as well as East Haddam.

Geoffrey Colegrove was asked to obtain information from some towns that have already implemented the concept. It will be interesting to see the balance between the Village District and existing Historic District and Planning and Zoning interests play out.

February 1, 2006
Page 9

Jan Melnik recommended that the Commission consider the input received about the potential zone change along Route 147 and discuss at the next meeting.

Motion by Ralph Chase, seconded by Dave Foley, to adjourn the meeting at 9:50 p.m. Motion carried unanimously.

Respectfully submitted,

Jan Melnik
2/8/2006