

TOWN OF DURHAM

Planning and Zoning Commission

P.O. Box 428

Durham, Connecticut 06422-0428

MINUTES OF MAY 16, 2007, MEETING

Present

Members: Ralph Chase, George Eames, Richard Eriksen, Jim Kowolenko, Gene Riotte,
Tom Russell

Town Planner: Geoffrey Colegrove

Alternates: Mike Geremia, Mark Laudano

Absent

Members: Frank DeFelice, Dave Foley, Dian O Neal

Alternate: Brian Ameche

Mike Geremia was seated on the Commission in Dian O Neal s place.

1. Approval of Agenda

Motion by Ralph Chase, seconded by Tom Russell, to approve the agenda of the May 16, 2007, meeting as presented. Motion carried unanimously.

2. Public Session

Diana Cruise addressed the Commission regarding the replacement of dead trees along the bank at Greenland Realty; there are in excess of 30 dead trees. Geoffrey Colegrove will inspect the tree situation at Greenland Realty.

Mark Laudano was seated on the Commission in Frank DeFelice s place.

3. Zoning Enforcement Officer s Report

Geoffrey Colegrove stated that he was waiting the conclusion of the 10-day period following notification about the temporary structure over a boat at 45 Augur Lane. This must be removed –the variance request was denied by the Zoning Board of Appeals.

A letter will also be written to Joe Davis, Mauro Drive, concerning an accessory structure directly on the property line. In addition, he is apparently operating a roofing business from the home and needs a home occupation permit.

Geoffrey Colegrove advised that the Hitchin Post had changed its website to delete mention of the cruise night.

Regarding a situation on Canterbury Lane with junk cars, they all belong to renters of the property; the property owner will be advised.

Geoffrey Colegrove advised that the town treasurer, Wendy Manemeit, has proposed a bond cover sheet to more efficiently process building bonds (short- and long-term). She is seeking recommendations from a number of sources to help improve this process. There had been a problem several years ago regarding tracing bonds back to their origin; this device is intended to help alleviate future problems in that regard.

Richard Eriksen suggested that a master list of bonds should be regularly updated. Geoffrey Colegrove indicated that this exists for long-term bonds but should be implemented for short-term bonds.

Geoffrey Colegrove advised that Brian Curtis, town engineer, has determined a bond for the restoration/driveway grading plan for the Russells, New Haven Road; he recommends \$7,300. This has been communicated to the applicants.

4. Roundtable Discussion Concerning Alternative Uses in the Historic/Main Street Residential Zone

Duncan Milne, chairman of the Historic District Commission, was in attendance, along with three other members of that Commission.

George Eames asked if members had had an opportunity to review or discuss the matter. Duncan Milne indicated that the group has not met formally and there is no drafted statement; however, George Eames stated that it would be valuable for those in attendance to share their thoughts with the Planning and Zoning Commission.

To George Eames query as to whether the Historic District Commission would be drafting a formal statement, Trish Dynia (a member of that group) indicated that the topic *was* addressed at the HDC s recent meeting and an opinion was formulated that that group would not be coming up with a formal opinion.

Duncan Milne stated that the group had talked about it and agreed that they don't have a legal opinion on the matter. Any opinion they would offer would be advisory only. Their voting capacity is limited to the exterior of the building.

Trish Dynia pointed out that the group had also said that it wouldn't want to come up with a viewpoint because of the very different views held by members of the HDC; that is why they were at the PZC to express individual views. It was also the reason a decision was made that no formal HDC opinion would be expressed.

Duncan Milne suggested that the 17 or 18 buildings in the special zone that could apply for professional offices be divided into three or four distinct categories based upon function. He suggested that institutional, manufacturing, and retailing might be three distinctions (there is but one active retail use presently, Durham Market). There is also manufacturing (former Merriam Manufacturing site on which the remaining back building was recently used for manufacturing purposes).

George Eames stated another way of developing categories could be buildings owned by the town of Durham, churches, and then the remainder that might be potentially suitable for possible retail use.

Richard Eriksen expressed his understanding that the Historic District Commission is not going to come up with whether or not retail sales should extend along Main Street at this point. But as individuals, members of the HDC are welcome to express opinion.

The members of the HDC should take a stance as a Commission, just as PZC votes on a regulation (even if not unanimous; majority rules). It is an obligation of any commission.

Geoffrey Colegrove stated that at the last PZC meeting, Brian Ameche expressed the notion that Main Street should be intensified from a residential point of view. However, going back to concerns previously expressed by the town sanitarian, Bill Milardo, most of the properties in this zone along Main Street can't support residential (minimum 2-bedroom) usage from a septic standpoint; decreasing the likelihood of increased density. The former Adams/Merriam site is the one site that might possibly be able to be turned into a residential environment.

Unlike Middletown's objective to move roughly 5,000 residents back to the core of town, Durham is hampered by lack of a septic system. With regard to the subject of the recent public hearing, the Grange Hall clearly can't accommodate residential use.

Residential requirements are far more stringent than they would be for a fraternal gathering place or church.

Gene Riotte had a discussion with a member of the Economic Development Commission regarding the notion of possibly planning for locally owned small business as a concept; would this be appropriate to consider along Main Street (mixed uses)?

George Eames pointed out that the Commission, though not focused on the economic returns of such ventures, should remember that mixing in some retail and small shops with residences is not likely to have an impact on the tax base in town. But supporting locally owned businesses could be something to consider, especially given the proliferation of home-based businesses in town.

Richard Eriksen read from page 7 of the May 2 minutes in which Attorney Thomas Byrne pointed out that the Commission has considerable power in granting special permits especially given this is already a special zone (and not the farm-residential district as a whole, for instance) —and can address applications on a case-by-case basis without regard to (a) considering the entire zone or (b) spot zoning concerns. He noted that Attorney Byrne had indicated that this doesn't necessarily mean that the Commission couldn't be taken to court but, in Attorney Byrne's opinion, the Commission would prevail on a special permit basis.

By taking things on a building-by-building basis, the Commission can approach the situation slowly with due care and diligence; it is always possible to undo (change regulations) as opposed to changing zoning for the entire zone all at once. The Commission has the option of being very precise with a particular property and crafting enough language into the special permit so as not to worry about a parcel ten years down the road. In addition, each of the properties likely to pursue such a special permit is highly unique.

Jim Kowolenko pointed out that Attorney Tom Byrne's letter on the topic details six express points that the Commission can look at in moving forward with such applications. In particular, the notion of gift shop is very vague and really can't be defined.

In 1975 when the 17-18 structures along Main Street were selected for the list, the idea was to be as expansive as possible, considering many potential uses, even though it was unlikely that some of these structures would ever change purpose (i.e., library, town hall, or church). The goal, at the time, was to avoid the appearance of spot zoning. Since that time, the zoning laws and case law have changed.

Richard Eriksen advised caution in adding any new uses to the use table because of the difficulty of accurate definitions (i.e., gift shop or what is/is not an antique). He also noted the difficulty with trying to craft all-encompassing language that would apply to all 19 buildings. He noted that uses do change —i.e., the school in Middlefield that is now a senior center and the former church that became the grange hall in Durham.

The special permit process provides safeguards.

Geoffrey Colegrove stated that at the time that the list was made, some of the buildings were conforming and some were non-conforming (but not residential) in the residential area of Main Street. The idea was to retain the residential look of Main Street, one of the biggest assets the town has.

Trish Dynia asked for a list of all the buildings involved (detailed in the May 2, 2007, minutes). She then asked what the PZC was seeking an opinion on —a listing of the buildings the HDC believes should be eligible to apply for retail purposes? For the HDC to develop proposed language?

George Eames indicated that while the PZC was not looking specifically for the HDC to craft language, the idea would be to have the opinion of the HDC regarding the future of Main Street and the applicability of retail in the 18 structures.

There would ultimately be a public hearing and all residents would be invited to express their opinion.

Ralph Chase stated that the HDC has a vested interest in what happens on Main Street; to not have input from the HDC would mean that the PZC was operating in a vacuum.

In clarifying two properties on Main Street, the Larouche home (former funeral home and day care facility at 55 Main Street) is now purely residential and loses the option to apply under the special permit. Duncan Milne's property, even though a residence, does still qualify.

Rick Hanley, chairman of the Economic Development Commission, addressed the Commission. He stated that the EDC was very much in favor of finding appropriate uses for the buildings being discussed. The EDC is currently in the process of developing a strategic plan for economic development (or non-development) in sections of Durham. He stated that the EDC isn't thinking Home Depot on every corner, but trying to look at those areas of town that may be reasonable for retail. He noted that some towns determine non-development is the best way to go (i.e., open space pursuits).

Rick Hanley added that, as noted earlier, no development on Main Street is going to significantly affect the grand list. But he stated that economic development is not only for purposes of the grand list (and tax relief), it is to provide character, a level of convenience, and vibrancy to the town —as businesses have along Main Street for hundreds of years. The diversity of Main Street is something that should be protected.

Economic development can help the town —not just by increasing the grand list but if a business goes into an area that might otherwise have been residential, it becomes a potential positive revenue generator versus a potentially negative one (i.e., paying for kids to go to school, one of the biggest burdens in the town).

The HDC's responsibility is to look at exteriors and architectural features as well as appropriateness of buildings, parking, stone walls, the structures themselves; the PZC concerns itself with uses and zones.

Duncan Milne reiterated that the HDC's charter is to provide advisory input only.

The Commission, through the special permit process, has the ability to apply a number of criteria to an application: parameters for parking, traffic generation, number of employees, etc.

Ralph Chase stated that it might be premature to make any change until the results of the EDC survey become available. Richard Eriksen noted that it was also important to hear what the HDC has to say. Finally, hearing from applicants on an individual basis with individual applications might be the best way to proceed.

Trish Dynia stated that there are several old towns in Connecticut where historic districts have a very nice mix of residential and commercial/small business uses (i.e., Essex, Branford, Guilford, and Wethersfield). As part of the discernment process, she recommended the PZC contact some of these towns to determine how they keep retail use in check and balance a mix of residences and small, quaint shops instead of reinventing the wheel.

Jan Melnik reminded that Attorney Tom Byrne had advised the Commission to link the importance of preservation of these buildings to any special permits considered (i.e., the importance of restoring and preserving buildings in disrepair that might otherwise not be retained).

Geoffrey Colegrove stated that in the original regulations for professional offices, medical and dental offices were prohibited because of traffic generation concerns. He also stated that the special permit process allows the Commission a considerable amount of discretion, including such points as impact on adjacent property values, neighborhood, etc.

Clay Howe addressed the Commission, thanking members for a very edifying conversation. He concurred that everyone is interested in preserving the wonderful atmosphere on Main Street, but expressed concern for the complexity of the matter and inability to predict what would happen in the future. He used an analogy about carriage making in the 19th century –and not knowing what might happen in 30, 50, or 100 years.

He also expressed confidence in the abilities of the Commission to bring together intelligence and collective wisdom to come up with a plan that is flexible enough to tie to preserving the physical qualities that bring back memories of the magic on Main Street without being so presumptuous as to think that the townspeople know what will work in 100% of all cases. ”

Geoffrey Colegrove pointed out that one of the things that should be realized is that the PZC always has the ability to change things. Even if a mistake is made, the regulations can be changed. He added that one thing was certain –that traffic will increase on Main Street.

Commission members discussed reviewing Attorney Tom Byrne s points –considering number of square feet of a business, traffic impact, number of employees, hours of operation, etc.

Geoffrey Colegrove stated that, at a minimum, the Commission might examine broadening definitions to go beyond just professional offices and consider other possible uses and where they might go.

Dottie Smith asked the Commission if they would appreciate her making a very specific list of what her proposed shop would entail (providing detail on all the criteria being discussed). George Eames thank her for her comments, but thought that there was planning on a broader scale that the Commission needed to do first.

Walter Cihocki, the building owner, addressed the Commission. He referenced a comment from the recent HDC meeting wherein it was stated that as long as the outside of the building was preserved, they didn t care if he moved cattle in. He asked the process for proceeding with a new application; George Eames indicated that he could proceed with a new application if desired. This matter will continue to be on the agenda of future meetings.

5. Payment of Bills

Motion by Ralph Chase, seconded by Mike Geremia, to approve payment of the following bills:

- Attorney Thomas Byrne —\$1,950.00 (Main Street zone change case)
- Jan Melnik, Absolute Advantage —\$529.35 (minutes of May 2, 2007)
- *Middletown Press* —\$491.83 (new charges)

Motion carried unanimously.

6. Approval of Meeting Minutes

Motion by Ralph Chase, seconded by Mike Geremia, to approve the minutes of the April 18, 2007, meeting as submitted. Motion carried, 7-1, with all in favor with the exception of Mark Laudano (in abstention).

The minutes of May 2 were tabled until the next meeting.

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7. Town Planner s Report

Geoffrey Colegrove stated that the Commission was up to date on all applications.

Motion by Gene Riotte, seconded by Tom Russell, to adjourn the meeting at 9:03 p.m.
Motion carried unanimously.

Respectfully submitted,

Jan Melnik
5/21/2007