

TOWN OF DURHAM

Planning and Zoning Commission

P.O. Box 428

Durham, Connecticut 06422-0428

MINUTES OF SEPTEMBER 20, 2006, MEETING

Present

Members: Ralph Chase, George Eames, Richard Eriksen, Jim Kowolenko,
Jan Melnik, Gene Riotte, Tom Russell
Town Planner: Geoffrey Colegrove
Alternate: Jackie Snow

Absent

Members: Dave Foley, Dian O Neal
Alternates: Brian Ameche, Frank DeFelice

The meeting was called to order by George Eames, Chairman, at 7:30 p.m.
Jackie Snow was seated on the Commission in Dian O Neal s place.

1a. New Alternate

George Eames noted that Brian Ameche has been placed on the Commission as an alternate by the Board of Selectmen.

1. Approval of Agenda

Motion Ralph Chase, seconded by Jackie Snow, to approve the agenda of the September 20, 2006, meeting as presented. Motion carried unanimously.

2. Public Session

No business.

3. Laura Milano, Informal Discussion of Possible 1-lot Subdivision, 1147
New Haven Road

The applicant is still weighing options. Two adjacent neighbors were notified of a possible application. One replied affirmatively and there has been no reply from the other.

George Eames indicated that the next action will be the applicant's; the Commission has provided insight through meetings and at the site walk. Difficult access into the site continues to be a potential problem.

4. Jay Meadows, Informal Discussion of Possible Uses of Property, Intersection of
Route #68 and #157

Jay Meadows addressed the Commission regarding his property at Routes #68 and #157. He is interested in being able to place a sign for his general contracting business on the property. Geoffrey Colegrove explained that a sign cannot be placed independent of a business use, only in conjunction with one. Jay Meadows replied that he could be also interested in selling building materials, brick, retaining wall materials, mulch, topsoil, and other items from the site itself as well as parking construction vehicles on the property. There would not be retail sales at the site; any materials sold would be delivered to customers. Jay Meadows stated that his review of the regulations showed that general contractors are permitted in the heavy industrial zone. Because of the requirement for a special permit to allow up to 25% retail sales, Jay Meadows indicated he would leave this activity out of the planning.

Planning will need to take into account a significant amount of wetlands located on the property. Jay Meadows noted that he had cleaned up debris that had been dumped on his property by others.

Geoffrey Colegrove indicated that he would need to have an A-2 survey of the property prepared by an engineer and then present a site plan that also depicts the flagged wetlands to the Commission showing the proposed activity. Any sign proposed would need to conform with the regulations. Any activity within 100 feet of the wetlands would need to be reviewed by the Inland Wetlands Commission.

Geoffrey Colegrove also recommended that the Department of Transportation be approached before the planning progresses too far. They have total authority over access, drainage, lines of sight, and curb cuts. Jay Meadows should contact Dan Pompeii (DOT District #1 in Rocky Hill).

5. Roger Passavant and Lisa Harness, Request for a Proposed Two-lot Subdivision, Old Blue Hills and Shunpike Roads

Pat Benjamin addressed the Commission on behalf of the applicants. The property totals 4.4 acres with an existing house, driveway, and septic system on a portion of the lot. The applicant wishes to cut off a 2.16-acre lot.

At the last meeting of the Commission, everything was reviewed and approvals were provided by everyone except by the Conservation Commission. This group has since reviewed the application and provided recommendations (retaining large oaks and maples on Old Blue Hills Road, providing an arborvitae buffer, retaining maples on Shunpike Road, and providing low screening). The applicant is willing to comply with all of these recommendations.

The applicant retained a soil scientist, Matthew Davison, to inspect the site, currently all pioneer species. As a forest in transition, eventually the site will be controlled by sugar maples. The applicant will keep to the limits of clearing noted on the plans and the perimeter will be filled in with deciduous trees. The existing cedar buffer will be retained.

Motion by Richard Eriksen, seconded by Ralph Chase, to approve the application of Roger Passavant and Lisa Harness, request for a proposed two-lot subdivision, Old Blue Hills and Shunpike Roads, with the inclusion of recommendations of the Conservation Commission: retain oaks and maples on Old Blue Hills Road side, provide arborvitae buffer, retain six-inch maples on Shunpike Road, and leave wetlands undisturbed. Motion carried unanimously.

6. Distinctive Building, LLC, Modification to Site Plan, 45R Ozick Drive

Rory Wilson addressed the Commission. He stated that the topographic maps for the site are off by approximately three feet. As such, he does not believe that a guardrail is necessary on the easterly side of the site, but it will still be included to the south and north. He stated that he would like approval for using process/gravel and compaction — although he ultimately plans to pave. The common driveway will be paved; is about 520 feet in length and serves two front lots and one rear lot.

Geoffrey Colegrove stated that it would be important to clarify exactly what the Commission wants to approve so that issuance of the certificates of occupancy are very clear. He added that dust might be the only potential problem; however, this has not been a problem with adjacent properties and the stone would be a positive way to handle water infiltration. He stated that if the Commission votes to accept these proposals, the site plan will need to be modified (i.e., not include paving).

Adjacent property owner Dave Dingwell addressed the Commission. He stated that with 24 bays, there will be 10 times as much traffic as exists with Greenland Realty. He believes dust will be a concern. In addition, he stated a major problem with hours of

operation at the site, which has been opening at 5 a.m. all mornings of the week (including Saturday and Sunday) and has generators running 24/7. This is about 100 feet from his home.

Rory Wilson stated that he did not know what hours the contractors were working and that he has not received any complaining telephone calls.

Dave Dingwell said that he has tried to be a good neighbor; he would like to see set hours of operation and conditions for operating the business. Rory Wilson responded that if there are limited hours of operation in the regulations, he would be bound by them; however, he did not believe that there were specified hours of operation in this zone. Geoffrey Colegrove indicated that there are hours for certain heavy construction activities (i.e., 7 a.m. to 5 p.m.), but these are not for the operation of the business nor for shift operations.

Richard Eriksen stated that common sense should prevail, adding that there is a noise ordinance in town. He noted that the Commission does not necessarily know there is a problem until someone complains.

It was agreed that a site walk would be held by the Commission on Saturday, September 30 at 9:00 a.m.

Motion by Ralph Chase, seconded by Jackie Snow, to recess the regular meeting at 8:11 p.m. for the public hearing of Stone Bridge Crossing, LLC. Motion carried unanimously.

PUBLIC HEARING

1. Applicant/Owner: Stone Bridge Crossing, LLC Ron DiGennero
Location: Johnson Lane
Application: Request for a proposed 7-lot subdivision on approximately 32.39 acres of land, Johnson Lane

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

Town Planner: Geoffrey Colegrove

Alternate: Jackie Snow

Chairman George Eames read the call for the Public Hearing from the Legal Notice. Attendance was taken and all members present were seated on the Commission. Jackie Snow was seated on the Commission in Dian O Neal s place.

Pat Benjamin addressed the Commission on behalf of the owner, Ron DiGennero, who owns a total of about 45 acres on the western side of Johnson Lane. For this 7-lot subdivision, a little over 32 acres will be used. He then described the overall parcel,

including the box culvert/bridge crossing for Sumner Brook. Wetlands have been flagged. The lots are proposed as follows:

- Lot 1 2.03 acres
- Lot 2 2.47 acres
- Lot 3 2.05 acres
- Lot 4 interior lot with a 25-foot access strip 10.84 acres
- Lot 5 interior lot with a 25-foot access strip 6.09 acres
- Lot 6 2 acres
- Lot 7 5.1 acres

Lots 3, 4, 5, and 6 will share an 18-foot common driveway. A conservation easement will be placed on about 9.78 acres. There will be a 1,400-foot long, 24-foot wide paved public road. Well and septic locations were reviewed, along with grading of the proposed common driveway.

There will be no increase in runoff from the site in its post-development state. Details of the proposed detention basin construction were discussed. The town engineer has reviewed details of the construction sequence:

- 1) common driveway to be built when road is built
- 2) cut slope to east to be covered with erosion sedimentation blanket also plant with 200 creeping junipers
- 3) change grading for driveway to lot 6

The road has been planned for construction in an area where the cuts and fills are minimized as much as possible.

The arch span bridge proposed will be 20 feet wide and 5 feet high; it is manufactured by ConnSpan and includes eight-foot, precast sections that are dropped into place by a crane. The footings take about a week to construct, with the bridge installed in one day.

The town sanitarian, Bill Milardo, has reviewed the plans and did additional testing for the redesigned septic system on lot #3. All comments from the town engineer, Brian Curtis, have been incorporated in the revised plan.

The balance of the parcel, a little over ten acres, is being preserved for a possible active adult community (perhaps five to ten 2-bedroom homes), thus creating a mixed use in this farm-residential zone.

Guiderails will be installed along the edge of the driveway serving Lot 6, along the detention basin, along Johnson Lane, and along both sides of the entrance into the project. Core 10 rust metal beam guiderails will be used. These will be faced with 2x12 rough lumber bolted to the front (as is the case with Cesna Drive).

The fire pond was discussed. The finish elevations should be within the 22-foot maximum required by the fire department. Harry Hall, Durham Fire Chief, is aware that a 20,000-gallon fire tank is also proposed in lieu of the pond not being completed (it will need to be deepened with an 18-inch pipe about 300 feet in length and a manhole). It is believed that the fire pond will work appropriately and be approved by the Inland Wetlands Commission. However, the fire tank will be installed if the pond, for some reason, does not work. Pat Benjamin added that a 20,000-gallon tank will be required if the active adult community is built out.

Pat Benjamin stated that Harry Hall will write a letter to the Planning and Zoning Commission noting that the fire pond will need to be constructed before issuance of any building permit as a condition of approval.

A grading easement of 25 feet in width by 250 feet in length has been placed along Foot Hills Road to allow the town to handle work necessary to the drainage system in that area (there are existing drainage problems). Bond estimates are currently being developed by the town engineer for the applicant's review.

There was no public comment.

Motion by Richard Eriksen, seconded by Jan Melnik, to close the public hearing of Stone Bridge Crossing, LLC, 7-lot subdivision, Johnson Lane. Motion carried unanimously.

Motion by Ralph Chase, seconded by Jackie Snow, to reconvene the regular meeting at 8:32 p.m. Motion carried unanimously.

7. Stone Bridge, LLC, Request for a Proposed 7-lot Subdivision, Johnson Lane

Motion by Richard Eriksen, seconded by Ralph Chase, to approve the 7-lot subdivision request of Stone Bridge Crossing, LLC, Johnson Lane, subject to conformity with all requirements of the town engineer as well as the condition that the fire system will be created before the issuance of any building permits. Motion carried unanimously.

8. Lino's Market, Site Plan Review for Possible Expansion, 472 Main Street

Pat Benjamin addressed the Commission on behalf of the applicant (Lino was on vacation). The proposed plans will triple the available parking space from 11 to 30 cars. The addition is about 1,785 square feet (35x51). Wood bollards are proposed for placement at the side of the parking area in the front. There will be one primary access/egress area for the site plus a one-way entrance for trucks to access to the north; this will get trucks onto the site without conflicting with customer traffic. It will be posted as a service entrance only for the site; in addition, "do not enter" will be posted from inside the site.

Pat Benjamin detailed the landscaping plans for the site. The dumpster will be located at the back of the site, screened by a stockade fence. For buffering, the front is already buffered with low-growing plants. An additional 22 creeping junipers will be added to the front. An 18-inch berm will be created to the front/north and include four-foot high emerald arborvitae. The deciduous tree line along the north of the site will have 13 five-foot Norway spruce trees added. There is no buffer proposed for the rear of this site (all commercial zone backed up against a light industrial zone). The rear of the site is already wooded. A four-foot high emerald arborvitae row (20 trees) will be planted to the south along the property line.

The town engineer has reviewed and approved the plans. There are two parking spaces, which are preexisting, nonconforming uses.

Lighting for the site was reviewed. Two lights on the site will be removed and one 250-watt metal halide pole light will be placed at the front of the site. From 40 feet away, there is 1 foot candle of output. The building itself will feature 70-watt lights on the front (decorative fixtures, cutoff along the bottom with a lens attachment; the source of light is completely recessed). Output is .05 foot candles at the property line. No lights are going to be installed to the south.

The underground detention system in the area will be reviewed by the state health department when the well is reviewed.

In terms of coverage, in a commercial zone, 60% is allowed. Building coverage, now at 12.4%, will be increased to 13.6%. The front setback of 30 feet is retained.

Architectural plans were then reviewed by Joel Raphael Associates of Hartford. The building has been designed to feature a classic shape with a festive market look. The building will have arched windows, awnings, and a glass storefront entrance. The peak of the building at its highest is 33 feet (35 is the maximum allowed). The building sits very low on the site. The bottom portion of the building will feature brick construction with stucco on the upper half of the building. Three different color schemes are being considered, all traditional in look. A cupola will top the building (perhaps with a dim light inside).

To Tom Russell's question regarding removal of material, Pat Benjamin explained that between 600-700 cubic yards of material will require removal. Jackie Snow inquired if there were any drainage concerns. Pat Benjamin explained that a catch basin at the corner of the new building will collect drainage from the roof and bring it to new footing drains.

To Jan Melnik's query regarding hours of operation during construction, Pat Benjamin explained that it is Lino's desire to remain open as much as possible.

Motion by Richard Eriksen, seconded by Ralph Chase, to approve the request of Lino s' Market, site plan review, 472 Main Street, subject to conformity with all requirements of the town engineer and the Department of Transportation. Motion carried unanimously.

9. Tilcon, Inc., Renewal of Special Permit for Earth Excavation and Removal Permit, South Side of Wallingford Road

Frank Lane addressed the Commission. The company is seeking its annual permit renewal approval. He reviewed the property map and showed areas of activity. There has been somewhat less material removed in the last year as compared to previous years.

Storm water detention areas have been enhanced with two additional basins constructed under the guidance of the Department of Transportation. These help to control turbidity of discharge.

Plans for the next year are uñremarkable, ãt about one million tons. This is a little less than previous years.

Motion by Jim Kowolenko, seconded by Ralph Chase, to approve the annual renewal of the special permit for earth excavation and removal, south side of Wallingford Road, Tilcon, Inc. Motion carried unanimously.

10. Pat DiNatale, Request for a Proposed 1-Lot Subdivision, Lot #15, Mauro Drive

Pat DiNatale described a remaining lot with a 25-foot access strip off Mauro Drive. There is an approved culvert for a wetlands crossing. The parcel is 4.6 acres in size. There are two other landlocked pieces to the north that will be remaining land of Pat DiNatale. This lot was created as part of the original Johnson subdivision. There is an easement that runs to the York property; it preexists zoning and it is unlikely to ever be used (the area it runs to is entirely ledge). It has been relocated so that none of it extends over the septic system.

Inland Wetlands and the town sanitarian have favorably reviewed the application.

Motion by Richard Eriksen, seconded by Jackie Snow, to approve the request for a proposed one-lot subdivision, Lot #15, Mauro Drive, Pat DiNatale. Motion carried unanimously.

George Eames inquired of Pat DiNatale the planned occupancy for his new building at the south end of town. Pat DiNatale stated that the first floor of the building would house Cuginchaug Family Practice, a liquor store, and Perk on Main. There will be offices (2) upstairs and CarQuest will be moving to the lower/back level. He will be coming back to the Commission for review of the modified site plan to accommodate CarQuest s' use of the building and an adjustment in the back driveway area. The aisle will be widened and parking created.

Pat DiNatale indicated that he had purchased additional land at the back of the property from Cozy Corner to accommodate this change. This enables him to retain the same overall coverage (limited to 66%). Parking elevations along the road are exactly as approved.

11. Joseph Rizzo, Renewal of Special Permit for Accessory Apartment, 206 Maple Avenue

Joseph Rizzo addressed the Commission. He has owned the property for five years. The accessory apartment over the garage was built in 1970. It was approved in an application from him in 2001. He is seeking renewal along the five-year guidelines. The Commission commended him for taking the initiative to renew this five-year permit.

Motion by Jan Melnik, seconded by Ralph Chase, to approve the accessory apartment at 208 Maple Avenue, Joseph Rizzo, five-year renewal of permit. Motion carried unanimously.

12. Ellen Sibilias, Dolphin Days Learning Center, Request for Special Permit to Construct a Day Care Facility and Related Parking, 21 Ozick Drive

Mr. Sibilias discussed proposed plans for his wife, Ellen Sibilias's, business. A public hearing is being sought for this application. The property is at the corner of Ozick Drive and Route 68 with access from Old Mountain Road.

The town sanitarian is currently reviewing septic issues, but the plans will be ready for review in two weeks. A bridge will be involved in the construction across a wetlands area.

Geoffrey Colegrove noted that the original property owner, Mr. Ozick, had cut all the trees on the property. There has been no indication of any replanting plans along the watercourses to augment the disturbed areas. This must be examined. Buffering also needs to be addressed along the property line (to be addressed by Mr. Ozick).

The Commission will hold a site walk on Saturday, September 30, at 9:30 a.m. The public hearing will be held on October 4, 2006, at 8:00 p.m. Signs must be posted along Route 68, Old Mountain Road, and Ozick Drive for the hearing.

Attorney Joseph Milardo, in attendance, spoke on behalf of his clients, the Cruises and Cindy Turcik, regarding the status of Mountain Road. It is their contention that it is not a town road. Therefore, he asked that serious consideration be given to not permitting access for the proposed day care business from Mountain Road. It is the belief of the parties that the road was abandoned and is now owned by abutting property owners. His clients would object to a further overburdening of Mountain Road. He stated that if the

applicant persists in utilizing Mountain Road, they will be included in a legal action to curtail such use. He advised that access to the site be pursued from other areas.

Geoffrey Colegrove noted that the applicant is also a part-owner of the road. A final decision needs to be made regarding the status of Mountain Road. Ken Antin was the attorney involved some time ago, not Tom Byrne. The written opinion Ken Antin provided several years ago is not very strong in terms of whether it is or is not a town road.

Motion by Richard Eriksen, seconded by Ralph Chase, to refer to the Board of Selectmen the issue of the status of Mountain Road (whether or not it is a town road) before the Commission has to decide any other applications affecting this road/using this road.
Motion carried unanimously.

13. Proposed Amendment to the Durham Zoning Regulations, Section 05. Common or Shared Driveways ”

This will be scheduled for a public hearing on October 4, 2006. Comments have been received from Attorney Thomas Byrne as well as several adjacent planning agencies. Corrections will be made.

14. Payment of Bills

Motion by Richard Eriksen, seconded by Ralph Chase, to approve payment of the following bills:

- Attorney Tom Byrne —\$3,725.00 (Hannah Enterprises)
- Attorney Tom Byrne —\$4,325.00 (Greenland Realty)
- *Middletown Press* \$66.32 (new charges)
- *Middletown Press* \$38.60 (new charges)
- Midstate Regional Planning Agency \$4,310.65 (July)
- Midstate Regional Planning Agency \$4,473.41 (August)
- Attorney Tom Byrne —\$2,525.00 (February 8 invoice)
- Attorney Tom Byrne —\$3,725.00 (March 10 invoice)
- Absolute Advantage \$290.51 (August 2 minutes)

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

15. Approval of Minutes

Motion by Ralph Chase, seconded by Gene Riotte, to approve the minutes of the August 2, 2006, meeting as presented. Motion carried 7-1, with all in favor with the exception of Jan Melnik (in abstention).

16. Town Planner s Report

Geoffrey Colegrove advised that Attorney Tom Byrne has filed a motion rejecting the objection of Greenland Realty s counsel.

A memo was received from the town engineer noting that the foundation for the North Plains Realty LLC project at the south end of town is about 20 inches higher than proposed and approved. The revised site plan that will be coming before the Commission will need to address this as well. The matter of erosion and sedimentation controls (being missing) has since been resolved.

A review of the State of Connecticut Department of Public Health found that there is no need to create a new water company for the Kelly Industrial Park complex at the north end of town (former Parsons building). There will be less than 25 employees.

A letter was sent to Joseph Flannigan and Darlene Ghezzi of 73 Ernest Drive, regarding the violation of the sideline requirements. They built an accessory building within the 25-foot setback, despite having received a denial from the Zoning Board of Appeals for replacing a previously existing structure using the same original footprint. They originally had plans to relocate the building when selling their home —but the house didn t sell. They will be provided ten days in which to act.

17. Zoning Enforcement Officer s Report

Ed Grimes investigated a complaint at 62 Wheeler Road in August. There was an apparent accumulation of unregistered vehicles and material by Mr. Starr at the site, a site on which the Commission has previously had to take action. A timeframe was allowed to Mr. Starr for correction of the problem and this was satisfactorily handled.

18. Miscellaneous

Richard Eriksen suggested that the Commission formally institute regulations regarding hours of construction (separate from hours of operation), in particular, if there are residences in close proximity. Geoffrey Colegrove will investigate to see what other towns are doing.

Motion by Ralph Chase, seconded by Tom Russell, to adjourn the meeting at 9:52 p.m.
Motion carried unanimously.

Jan Melnik
9/28/2006