

TOWN OF DURHAM

Planning and Zoning Commission

P.O. Box 428

Durham, Connecticut 06422-0428

MINUTES OF APRIL 6, 2005, MEETING

Present

Members: Richard Eriksen, Jim Kowolenko, Jan Melnik, Dian O'Neal, Jackie Snow
Town Planner: Geoffrey Colegrove
Alternates: Ralph Chase, Gene Riotte

Absent

Members: Brian Ameche, Al Bradanini, George Eames, Dave Foley
Alternate: Frank DeFelice

The meeting was called to order by Richard Eriksen, Vice Chairman, at 7:30 p.m. Gene Riotte was seated on the Commission in Brian Ameche's place. Ralph Chase was seated on the Commission in George Eames' place.

1. Approval of Agenda

Motion by Jan Melnik, seconded by Jackie Snow, to approve the agenda of the April 6, 2005, meeting as presented. Motion carried unanimously.

2. Public Session

Bob Eurto, 149R Cream Pot Road, addressed the Commission regarding the site work taking place at 177R Cream Pot Road. The work began in December and, since that time, there has been significant water coming off the property onto his land. The brook is eroding, his driveway is flooding, and he is concerned about losing the bank behind his house. The water backs up to his deck and is overflowing the curtain drain.

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Geoffrey Colegrove walked the site with Kurt Bober; the water diversion swale is clearly not working and the silt fence was found to be improperly installed. In addition, hay bales were installed in the wrong places. Bob Eurto also expressed concern with the problems that may ensue once the septic system is installed. The property owner, Mr. Seiff, is working on addressing the drainage and swale problems on the easterly side of the driveway. Geoffrey Colegrove will reinspect the property and direct placement of a double row of hay bales in the correct locations with silt fence properly buried at least six inches and/or placement of wood chips.

Motion by Dian O'Neal, seconded by Jackie Snow, that if the silt fence and proper erosion controls are not installed at 177R Cream Pot Road by April 14, 2005, the Commission will institute measures to pull bonds and have the work completed. Motion carried unanimously.

3. Hans Pedersen, Request for a Special Permit for a Day Care Center, 68 Main Street

Attorney John Corona addressed the Commission on behalf of the applicant. A lease has been negotiated for the former fair house/administrative offices. No sign is planned for the business. A fence will be installed to ensure a safe play area. The public hearing will be held April 20, 2005.

4. M&M Ventures, LLC, Request for a Special Permit for Automobile Sales and Service, Route #17 and Parsons Lane

Attorney John Corona represented the applicants, who are proposing to relocate their existing business, Durham Auto Service, to the former Behrens site on Route #17 and Parsons Lane. The parcel is 1.77 acres in size and is in the C1 (commercial) zone. Ultimately, a building 7,260 square feet in size will be constructed, but initially it will be 60 feet by 100 feet in dimension. The entrance to the building will be from Parsons Lane.

The site plan was reviewed by engineer Pat Benjamin. The plans depict approximately 35 parking places, including two handicapped spots. There will be auto service bays and a drive-in lube center. The soils on the site are excellent.

Coverage for the site is proposed at 34%; a maximum of 60% is allowed in the zone. The building coverage will be 11%; 25% building coverage is allowed. Proposed plantings were also reviewed. Preliminary renderings were presented that will be modified before the public hearing, scheduled for April 20, 2005. Lighting plans, including footcandles, will also be presented at the public hearing.

Hours of operation are proposed from 8 to 5:30, Monday through Friday, and 8 to 3 on Saturday. Oil will be stored in accordance with regulations and removed from the site on a regular basis.

5. Jim Bonito, Informal Discussion of Possible Elderly Housing, Durham Rod and Gun Club Property, Route #79

Geoffrey Colegrove indicated that Bob Bascom is interested in having the Commission walk the site prior to the trees budding; however, as no application is pending, the Commission determined that a walk will not be held until plans are available to review during such a walk.

6. Zoning Enforcement Officer

Geoffrey Colegrove indicated that a cease-and-desist order had been imposed on Greenland Realty, Mountain Road. Fred Melillo, the property owner, has been apprised of a number of problems at the site, including noncompliance with the application, material leaving and entering the site, lights installed in improper places on the buildings and running throughout the night, and a garage door being installed where not approved on the plans (facing residences).

A meeting was held Thursday of the prior week and the items in the cease-and-desist order were reviewed. The south and north lights are now turned off.

The neighbors attended the Board of Selectmen's meeting on Monday to discuss the noise emanating from the site. First Selectwoman Maryann Boord met at the site with Fred Melillo and Attorney Joan Molloy to discuss the problems, specifically the noise issue.

Jan Melnik read into the record a letter received from Attorney Joan Molloy reiterating the concerns which prompted the issuance of the cease-and-desist order. In responding to the various items cited, Attorney Molloy stated that Fred Melillo would submit a revised site plan for approval depicting the garage door that was installed. She explained that the door was to allow access to the building for the storage of smaller equipment.

Attorney Molloy noted that lighting had not been properly installed. That fact and lack of the completed berm and landscaping have created the problem with light leaving the site. She noted that some of the fixtures have since been redirected and others turned off.

In terms of materials leaving the site, according to Attorney Molloy, her client encountered "substantially more rock" than originally expected. Because it was not suitable for site work, it is being crushed and removed. She stated that there are substantial stockpiles of material around the site, noting, that because her client "does not have permission to remove the material from the site, he now is restricted in the areas he can store his equipment."

Berm construction was delayed because of weather problems. In addition, because of the poor onsite materials, it was necessary to bring "structural fill" onto the site. This will allow completion of the berm as well as the detention basin. Attorney Molloy also noted

that Fred Melillo intends to create a more substantial berm between his property and the neighbors. This will necessitate impact on remnants of the stone wall remaining on the property. She stated that he would like to install a gate to his property.

Approximately three weeks are anticipated to complete construction of the berm and a total of approximately three months to complete the other required site work. The schedule is contingent upon the Commission granting permission to remove about 2,000 cubic yards of crushed stone from the site (100-120 truck trips) and allowing 1,000 cubic yards of structural fill to be brought onto the site (50-60 truck trips). Some of the stone will be removed to another site in Meriden. Attorney Molloy points out that truck warehousing is allowed in the district and is a component of the property owner's operations.

Assurances were made that the property owner "has and will continue to limit truck activity to customary hours associated with truck operations whenever possible." Attorney Molloy also stated that the activities transpiring are consistent with the zone and that "these impacts are only going to increase in the future as additional development occurs."

Geoffrey Colegrove stated that work was scheduled on Monday, April 4, to address the berm problems; however, heavy rains precluded it. He characterized the berm construction as the highest order of priority to help "button up" the site. The height of the berm will be raised.

Neighbors in attendance discussed the ongoing, significant problems with the site and impact on their quality of life. William Cruise, Mountain Road, expressed concern with construction and placement of the berm—in terms of the location and impact on town property. Much of the stone wall is now gone. Geoffrey Colegrove stated that the berm must be installed entirely on the applicant's property, not town property. He acknowledged that given the location of the driveway, it is quite possible that the property owner will need to relocate his own driveway to accommodate the placement of the berm; however, that is the property owner's problem to address.

Richard Eriksen outlined the process for amending the site plan; the applicant will need to present modifications to the Commission for review and possible approval.

Fred Melillo addressed the Commission, stating he is a partner in the trucking business operations producing truck traffic onto and off of the site on a daily basis. The on-site construction activities are being conducted to complete the site work, anticipated to wrap up by the end of June.

Diane Cruise, Mountain Road, addressed the Commission, presenting photographs and numerous instances of trucks coming onto and leaving the site as early as 3:40 in the morning on many occasions and including weekend and Sunday hours. She referenced minutes of Planning and Zoning Commission meetings dating back to 2001 in which the

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applicant indicated water sprinklers would be used to keep the dust down at the site; this has never been done. Dumpsters are located on the site now, in clear view of the homes in the neighborhood. Trucks line up in the morning as early as 6:45 with their motors running. Eighteen-wheel tractor trailers and municipal waste trucks (containing what materials, a question from the neighbors) enter and leave the site and lights continue to be on all night at the corners of the buildings. William Cruise added that the roll-off dumpsters create a tremendous noise.

Diana Cruise noted that the application was presented as an "8 to 5, seasonal business." This is clearly not the case.

Fred Melillo noted that the site is a commercial operation and that "things change" (in response to the activities not being what were presented and approved as part of the original application).

Richard Eriksen indicated an earlier request of the Commission for the tapes of the pertinent Planning and Zoning meetings to be transcribed with transcripts presented to Attorney Thomas Byrne. However, Jan Melnik noted that the tapes had not been able to be located at the Town Hall for transcription. Richard Eriksen stated that he would like Attorney Byrne's opinion relative to what is allowed at the site, hours of operation, operation without a certificate of occupancy, and other matters.

Diana Cruise noted that First Selectwoman Maryann Boord had stated during her site visit last week that the road "cannot handle the heavy truck traffic."

To a query regarding the description of "structural fill," Fred Melillo indicated that this is material that compacts properly in construction.

Dian O'Neal expressed concern with the content of the waste trucks.

Jan Melnik noted that at the root of the problem is the significant impact on the quality of life of the residents in the neighborhood.

Motion by Ralph Chase, seconded by Jackie Snow, to refer to Attorney Thomas Byrne the Greenland Realty matter, Mountain Road, for review of issues related to site compliance, permitted uses in the zone, permitted uses of the site plan approval, hours of operation, and status of operating business without a certificate of occupancy. Motion carried unanimously.

In other zoning matters, Ed Grimes will inspect the sale of tires on Route 77.

Dian O'Neal stated that the horse barn on Cherry Lane is now advertising retail sales for its operation; Geoffrey Colegrove will issue a letter on this matter.

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7. Payment of Bills

Motion by Ralph Chase, seconded by Jackie Snow, to approve payment of the following bills:

- *Middletown Press* — \$194.32 (legal notices)
- Absolute Advantage — \$221.32 (March 16, 2005, minutes)

Motion carried, 6-1, with all in favor with the exception of Jan Melnik (in abstention).

8. Approval of Minutes

Motion by Ralph Chase, seconded by Gene Riotte, to approve the minutes of the March 16, 2005, meeting as presented. Motion carried, 5-2, with all in favor with the exception of Jan Melnik and Jim Kowolenko (in abstention).

9. Town Planner's Report

Geoffrey Colegrove stated that the Crooked Hill Road project (town of Guilford) would be moving forward in terms of a meeting next week that would include himself, Brian Curtis, and Kurt Bober.

10. Miscellaneous

Richard Eriksen stated that he had received a query from the Board of Finance regarding a total of approximately \$80,000 in older bonds. A computer crash more than a year ago has delayed the availability of detailed records; however, Geoffrey Colegrove will request this information from Ellen Mauro, building department administrator.

Dian O'Neal asked the status of the sign at the fireworks site on Skeet Club Road. It is not legal at this point (off premises, no frontage). There is currently no directory sign provision in the regulations; however, this could be pursued by any interested applicants.

Motion by Jim Kowolenko, seconded by Ralph Chase, to adjourn the meeting at 9:10 p.m. Motion carried unanimously.

Respectfully submitted,

Jan Melnik

4/12/2005