

TOWN OF DURHAM

Planning and Zoning Commission

P.O. Box 428

Durham, Connecticut 06422-0428

MINUTES OF FEBRUARY 7, 2007, MEETING

Present

Members: Ralph Chase, Frank DeFelice, George Eames, Richard Eriksen, Dave Foley,
Jim Kowolenko, Gene Riotte, Tom Russell
Town Planner: Geoffrey Colegrove
Alternates: Brian Ameche, Mike Geremia

Absent

Member: Dian O'Neal

The meeting was called to order by George Eames, Chairman, at 7:30 p.m. Mike Geremia was seated on the Commission in Dian O'Neal's place. George Eames explained that he had received a letter from Jan Melnik resigning her position as a commissioner because of a requirement of the new town charter; new language affects her ability to serve as recording secretary while being an elected commissioner.

Motion by Ralph Chase, seconded by Dave Foley, to appoint Frank DeFelice as a full member of the Commission effective immediately in Jan Melnik's place. Motion carried unanimously.

1. Approval of Agenda

Motion by Ralph Chase, seconded by Dave Foley, to approve the agenda of the February 7, 2007, meeting as amended to reflect addition of the annual Classic T-Bird Club summer event (July 22, 2007) as item 6 a. Motion carried unanimously.

2. Greenland Realty, LLC, Request to Release Erosion and Sedimentation Control Bond

Town engineer Brian Curtis recommended two bond amounts for the Commission's consideration: \$830 for the southerly stockpile and \$8,900 for silt fence, hydroseeding, etc., for the northerly stockpile. The current amount of the bond being held is \$11,200.

Attorney Joan Molloy of Laughlin Fitzgerald in Wallingford stated that Brian Curtis has provided her with a copy of the same bonding information. However, she stated that she did not believe that the original bond provided for site restoration, just erosion and sedimentation controls.

Dave Foley stated that construction is still ongoing; there are now two huge piles of dirt, not part of the original site plan.

Attorney Molloy explained that her client had stabilized the site as instructed and done everything requested by the town engineer.

Discussion ensued about the need for material being spread on the site from the stockpile; it could involve the entire site. A permit might be required from the Inland Wetlands Commission.

Dave Foley stated that the site plan is not complete and because of the additional work required, the erosion and sedimentation bond should be kept in place. There is no way of knowing what the courts will decide in the interim. Attorney Molloy reiterated that site restoration should not be part of an E&S bond; she asked that the town engineer clarify this.

Brian Ameche stated that the erosion and sedimentation bond as well as the restoration work go hand in hand. He explained that soil and erosion measures are in place until site restoration is established and the site is stabilized.

This agenda item will be continued and Brian Curtis will be consulted regarding the bond.

3. Dottie Smith, Informal Discussion of Possible Uses for Grange Hall

Bill Smith addressed the Commission on behalf of his wife, Dottie, regarding their interest in the Grange Hall. They are considering purchase of the property and conversion to a gift shop. He mentioned their having owned such a business on Main Street for many years; they currently own a shop in Essex.

They are seeking direction in terms of changing the use of the facility to accommodate a gift shop.

George Eames stated that the Grange Hall was one of 11 structures on Main Street designated for special purposes along the Main Street residential zone; these include home occupations and other permitted uses, such as professional offices. The regulations don't address a use such as a gift shop, which is retailing (and prohibited).

The regulations would need to be changed to accommodate a retail use within these professional offices on Main Street. Geoffrey Colegrove explained that a petition would first be needed, then a public hearing held to change the permitted uses to allow such retail use. The Commission would accept testimony in favor and against the proposed change, then make a determination.

Richard Eriksen recommended that the town sanitarian and building department be consulted. The lot is very small; there are both septic and parking concerns. The regulations require one space for every 150 square feet of retail space.

Bill Smith stated that a new septic field is currently being installed.

Geoffrey Colegrove stated that there is an easement to the adjacent property that affects the parking for the property.

Motion by Ralph Chase, seconded by Tom Russell, to recess the regular meeting at 8:00 p.m. for the public hearing. Motion carried unanimously.

PUBLIC HEARING

1. Applicant/Owner: Vincent Baker
Location: Old Blue Hills Road
Application: Request for a Proposed 10-lot Resubdivision

Members: Ralph Chase, Frank DeFelice, George Eames, Richard Eriksen, Dave Foley,
Jim Kowolenko, Gene Riotte, Tom Russell

Town Planner: Geoffrey Colegrove

Alternates: Brian Ameche, Mike Geremia

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

Attorney John Bennett addressed the Commission on behalf of the applicant and introduced Frank Magnotta, the project engineer. The applicant is planning to convey a strip of property to the adjacent property owner (the Tirados) to help assure privacy for the neighbor's property.

A change has been made in the conservation open space to accommodate the change in the driveway into the subdivision. The driveway was shifted to the right about 25 feet (into lot #39). Final details will be submitted as part of the developer's declaration to deal with open space.

Lot #39 (which was reduced in size) is still over 40,000 square feet in size and has 200 feet of frontage; it conforms to the design criteria in place at the time that lot was originally approved.

Frank Magnotta stated that an evergreen buffer had been added to the plans and specified with plantings. Should the adjacent property owners not wish to accept the transfer, the buffered area would stay within the road right of way.

All staff concerns, including those of the town engineer and the town sanitarian, have been addressed. Chief Harry Hall of the fire department has indicated that the location of the 20,000 gallon tank meets the criteria of the fire department.

In terms of lighting for the project, there will be one at the intersection with Old Blue Hills Road and one at the cul de sac. This is accomplished through CL&P.

To Frank DeFelice's query regarding septic layouts, the plans have been submitted. Well arcs are shown on each of the individual properties. There is also a conservation easement shown; the property has not been deeded in fee. In terms of the change in the conservation easement, the Conservation Commission will review the Planning and Zoning Commission's referral and decide formally at their next meeting.

There will be no light on Higganum Road; that entrance to the property is for maintenance only.

Language for the common driveway serving lots #45 and #47 will be submitted for approval at the time other language is written (developer's declaration, restrictions for berms, etc.). Geoffrey Colegrove stated that prior to the endorsement of maps, all documents would need to have been presented. Bonds will be posted before the site can be disturbed.

There was no comment from the public during the hearing.

Motion by Richard Eriksen, seconded by Dave Foley, to close the public hearing of Vincent Baker, request for proposed 10-lot resubdivision, Old Blue Hills Road, to February 7, 2007, meeting. Motion carried unanimously.

Motion by Ralph Chase, seconded by Tom Russell, to reconvene the regular meeting at 8:18 p.m. Motion carried unanimously.

4. Vanessa Schaefer, Request for a Home Occupation Permit for a Design Consultant Business, 149 Sumner Woods Road

Vanessa Schaefer addressed the Commission. Letters to adjacent neighbors were sent and two letters have been mailed to her with support for her endeavor. The office will occupy less than 100 square feet of her 3,000 square-foot home. No traffic to her home will occur as a result of the business.

Motion by Richard Eriksen, seconded by Jim Kowolenko, to approve the home occupation request for an interior design consulting business by Vanessa Schaefer, 149 Sumner Woods Road. Motion carried unanimously.

5. Durham Auto Center, Site Plan Review for Illuminated Signage, Main Street and Parsons Lane

Attorney John Corona addressed the Commission on behalf of Durham Auto Center and Michael Corona. The application was approved about a year ago for the location along the west side of Route 17. Signage was not determined at that time. He has since met with Geoffrey Colegrove to determine the calculated area for the sign; he is returning before the Commission as a courtesy to show the plans for the signage. The lube center portion of the business will have an illuminated sign (typical in the industry); a rendering was presented. This business (Mobil 1 Lube Express) is separate from the service garage business.

Geoffrey Colegrove stated that he had advised the contractor that the wall-pack lighting installed was not as appeared on the plans; additional shields will be added to block the view of the lamp at the bottom of the fixture.

To Frank DeFelice's query about plastic or temporary signage, John Corona explained that all signage for the property will comply with the regulations. He did note that most businesses do have temporary signs from "time to time," provided that they are brought in at the end of the business day.

To Dave Foley's question concerning the lighting at night, John Corona indicated that he would verify this; however, normally lights would be on a timer. Dave Foley suggested that they should go off when the business is closed. John Corona noted that lights are relied on for publicity, even when the operation is closed. It was noted that flashing illuminated signs are not permitted.

6. DR&G Club, LLC and JRD Development, LLC, Request for Special Permit for An Active Adult Community, CT Route #79

The application provides for a possible 13 acres being contributed to a senior center. The conservation easement will encumber 3.6 acres along the border to the south, which has been added on to the originally proposed 6 acres of conservation easement.

If the 13 acres proposed for donation to the town are not accepted, then the applicant will retain this property for possible future development.

Richard Eriksen reiterated a concern that there should be a greater amount of open space when development that resembles cluster housing is proposed (somewhere on the order of 50-60% open space). As it exists now, there is no incentive for the town to get open space in exchange for “trading for cluster housing.”

Brian Ameche expressed concern with the waiver of grade on one driveway; however, the 13% grade is permitted in the regulations for private driveways.

Frank DeFelice asked what would happen if the homeowners were to petition the town to make this private roadway a town road. Geoffrey Colegrove explained that the road is not being built to specifications for a town road. It is the same issue as with Ivy Way—it does not meet the road regulations.

Motion by Richard Eriksen, seconded by Ralph Chase, to approve the application of DR&G, LLC and JRD Development LLC, for Estates at Durham Farms, subject to the ten conditions detailed in the attached two pages.

7. Vincent Baker, Request for Proposed 10-lot Resubdivision, Old Blue Hills Road

Motion by Richard Eriksen, seconded by Gene Riotte, to approve the request for a proposed 10-lot resubdivision, Old Blue Hills Road, Vincent Baker, with the condition that the Conservation Commission approves of the shift in the open space easement on Lot #39 and conformity to the items detailed in town engineer Brian Curtis’s 2/6/07 letter with four items specified on page 2 (1. The Commission should review the proposed lot area and lot line modifications for pre-existing Lot No. 39 located just east of the road intersection, as well as the proposed transfer of land with a conservation easement from the Baker lot to Lot No. 39; 2. Reference to the 75 ft. right-of-way should be deleted from Sheet No. 3; 3. Prior to final approval, a common driveway agreement for Lots No. 45 and 47 should be submitted for approval; 4. Documentation and quantities in support of calculation of an erosion and sediment control bond and a public improvements bond should be submitted to the Town Engineer for approval). Motion carried unanimously.

8. Rory Wilson, Distinctive Building, LLC, Request for Modification to Site Plan, 45R Ozick Drive

Frank Magnotta addressed the Commission regarding a request for changes to the original approval. Of primary concern is the issue of paving; the applicant is seeking to defer paving the entire area around the building (the west side is now paved). The balance of the site is process stone and the applicant would like to keep this unpaved for some period of time.

Rory Wilson expressed his preference for stipulating that he would return to the Commission with a new request to pave when he is ready to pave. He would expect to pave within two years.

In addition to this request, there is the desire to eliminate some of the original guiderail that had been proposed for the site and to change from wood to metal beam guiderails (most of the site is obscured from the road). All propane tanks will be above ground. Frank Magnotta stated that the site is substantially complete as far as construction is concerned.

Geoffrey Colegrove distributed information from Brian Curtis about the site.

Questions were raised regarding the requirements of the Department of Transportation for locating guiderails. Frank Magnotta indicated that these are used in high-speed areas; Brian Ameche added that certain slopes require them as well.

Frank Magnotta stated that the cost of adding wood on top of the steel "is part of the problem"; going to all-wood guiderails is expensive (\$100 per foot compared to galvanized at a cost of about \$20 a foot). The applicant is planning to incorporate used guiderails on the site.

Tom Russell stated that on the site walk, it was presented that wood would be used for aesthetic purposes and that the applicant was seeking one year to complete the paving for the project. There is a concern about dust problems.

To Dave Foley's query as to the rationale for the delay in paving, Frank Magnotta stated that there has been a fair amount of settlement with a substantial amount of fill brought onto the site. This is subject to even further settlement and may need regrading to consolidate. It might take a year or two before it really settles out.

There is one course of 2 ½ inch pavement that has been compacted to two inches in the area where it was installed.

Richard Eriksen asked what guarantee would be in place to ensure that the paving is done in one or two years without a bond.

Geoffrey Colegrove advised that there is still a substantial amount of work that needs to be done.

Rory Wilson noted that the Nosal property/Greenland was approved for process stone in some areas.

In terms of drainage, Frank Magnotta stated that a one catch basin was being eliminated with three leakoffs added.

George Eames asked that the town engineer review the changes that are being proposed as opposed to having the Commission try to engineer the project.

Tom Russell also suggested a bond figure for the asphalt be determined.

Dave Foley stated that while some storage areas and backs of buildings might be considered appropriate for process stone, the areas on this site are traffic areas with emergency access as well as along the front of the building; it represents a totally different situation.

It was the Commission's feeling that any delay on paving would need to be bonded. Brian Ameche asked that it be made clear to Brian Curtis that the Commission is seeking a thorough review about the paving bonding (north, south, and east sides, plus a review of the geotechnical issues from purportedly bad materials being used that may have to be excavated out so that the property can dry properly). The bond should be developed with an amount for each side of the building, plus the additional work for stormwater management items.

To Frank DeFelice's question, Rory Wilson stated that, based upon the construction schedule, he anticipates getting a certificate of occupancy in about three months. George Eames indicated that this would be all the more reason to obtain a bond.

Dave Dingwell, Mountain Road, stated that previous concerns with dust had been addressed. His primary concern was the hours being worked on Sunday. He would like to see the hours for outside construction reflected on the site plan. Richard Eriksen concurred. Dave Foley added that hours for the operation itself (post-construction) should also be included on the site plan. These will probably be in the range of 7 a.m. until 5 p.m. weekdays, 7 a.m. until noon on Saturday, and no Sunday/holiday hours.

9. 8-24 Review Turkey Hill Road

Geoffrey Colegrove reported that there was a site walk the previous week and a punchlist developed by Brian Curtis. There remain a number of open issues on this site, including the cul de sac at the fire pond not being in conformance. Lots 6, 7, and 8 are not completed yet; the road is used as a staging area. It seems premature to gain road acceptance because of the additional work necessary (final course and curbing will need to be reassessed). These matters could take another six or even eight months to resolve. The road is likely to be damaged and the town should not be liable (by accepting the road) prior to work being completed. Once the town engineer is satisfied, then the Commission will consider an 8-24 review.

Henry Bugai asked if the road to the fire pond (the old Powder Hill Road) was a private road or town road; Geoffrey Colegrove indicated that it will be a town road, ultimately maintained by the town; but from the pond out to Route 157, it will be abandoned. Henry Bugai then asked if the residents of houses in that area wished to make it a private road,

could they. Geoffrey Colegrove stated that they would have to petition at a town meeting for discontinuance in order for that to occur. He added that once the town does accept Turkey Hill, the town becomes responsible for maintaining the common area, detention basin, etc.

Henry Bugai apprised the Commission that stormwater from the road does not go into the detention basin (not even when it rains).

10. Payment of Bills

Motion by Frank DeFelice, seconded by Jim Kowolenko, to approve payment of the following bills:

- Absolute Advantage — \$479.43 (minutes of 1/17/2007)
- Attorney Thomas Byrne — \$2,400.00 (PJM/Dolphin Days)

Motion carried unanimously.

11. Approval of Minutes

Motion by Ralph Chase, seconded by Dave Foley, to approve the minutes of the December 20, 2006; January 3, 2007; and January 17, 2007 meetings as submitted.

Motion carried unanimously.

12. Town Planner's Report

Geoffrey Colegrove stated that a cease-and-desist order was issued at 6 Main Street and that the offending signs had been removed.

A certified letter will be delivered by sheriff to Brian Esparo regarding his home occupation permit being out of compliance; there was to be no alteration to the neighborhood and only one snow plow/commercial vehicle on the premises.

The site is apparently being used as a commercial property/construction zone within the neighborhood.

13. Miscellaneous

The Planning and Zoning budget has been submitted to the town finance director, Mary Jane Malavasi. There will be a meeting with the Board of Finance next week. George Eames explained the overexpenditures (first selectman Jim McLaughlin was present). The Commission is obliged to defend its own regulations when there are violations or legal suits filed against the Commission's decisions. The Planning and Zoning

Commission has been asked to inform the Board of Finance if budget line items are going to be overspent.

George Eames stated that the annual invitation of the Connecticut Federation of Planning and Zoning Agencies had been received. The banquet will be held on March 20 at the Aqua Turf. All members of the Commission are invited to attend; this is a budgeted item. Service awards will be given to those commissioners serving 12 years; there will be a lifetime achievement award as well as recognition for anyone, including staff, serving on a land use board for 25 years or more.

George Eames then read into the record a letter from Jan Melnik dated January 28, 2007, resigning her position as a commissioner on the Planning and Zoning Commission. She explained that with the new charter, her role as a paid recording secretary on the Commission and her role of elected commissioner had been singled out and no longer permitted. She provided copies of minutes from Planning and Zoning Commission meetings in 1995 and 1996 that showed the Commission's actions in seeking legal opinion from Attorney Thomas Byrne allowing her to hold both roles; because she felt her reputation had been impugned, she wanted the nine commissioners not serving on the Commission at that time to know the history.

Jan Melnik also noted the irony of being required to step down in her 12th year of service, especially in light of the announcement George Eames had made regarding the annual banquet and 12-year-service awards. The Commission thanked her for her years of service as a commissioner.

Motion by Dave Foley, seconded by Jim Kowolenko, to adjourn the meeting at 9:54 p.m.
Motion carried unanimously.

Respectfully submitted,

Jan Melnik