

TOWN OF DURHAM

Planning and Zoning Commission

P.O. Box 428

Durham, Connecticut 06422-0428

MINUTES OF JULY 18, 2007 MEETING

Present

Members: Ralph Chase, Frank DeFelice, George Eames, Richard Eriksen,
David Foley, Jim Kowolenko, Gene Riotte, Tom Russell
Town Planner: Geoffrey Colegrove
Alternates: Michael Geremia, Mark Laudano

Absent

Member: Dian O'Neal
Alternate: Brian Ameche

1. Approval of Agenda

Motion by Ralph Chase, seconded by Tom Russell, to approve the agenda of the July 18, 2007, meeting as presented. Motion carried unanimously.

2. Public Session

Dave Friars, 23 Brittany Drive, addressed the Commission, regarding tall grass and “no trespassing signs” posted within an easement. He asked if there are regulations covering that. George Eames indicated that there is nothing in the regulations concerning easement signage or cutting grass. Sign size must meet regulations. Geoffrey Colegrove indicated that the “easements” in question are actually owned 25-foot strips. There is an easement to the utility company over those strips, but the strips themselves are owned by the two adjacent landowners.

Geoffrey Colegrove stated that over the years, there has never been a complaint about no trespassing signs. There is no property maintenance ordinance in Durham; this was pursued about 15 years ago, but the motion failed.

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Duncan Milne, 253 Main Street, addressed the Commission. George Eames stated that the Commission has not yet placed on the agenda the matter of the Main Street/Historic District's input concerning possible use of structures beyond farm-residential or those properties with professional office capability.

Walter Cihocki addressed the Commission regarding the Grange property. He asked if commentary had been received from the Economic Development Commission. Nothing new has been received to date.

Bill Smith, 147 Cream Pot Road, addressed the Commission on the same subject. He asked for the status of the Main Street properties as well as an interpretation of Attorney Byrne's previously stated opinion that the Commission can specifically zone those buildings on Main Street affected by the special professional offices clause.

George Eames indicated that this issue was being considered and would be brought up for discussion fairly soon. Bill Smith asked for due consideration of Attorney Byrne's recommendations.

Trish Dynia, 91 Main Street, questioned what exactly was being done by the Commission regarding the Main Street properties. George Eames stated that Geoffrey Colegrove has been collecting information.

Cindy Tyrseck, Mountain Road, asked questions about the tree plantings on the overflow parking area for Dolphin Day Care. She presented several pictures and asked about the buffer. Geoffrey Colegrove stated that the buffering must be complete prior to issuance of the certificate of occupancy. The plantings are to extend directly up to the gate.

Diana Cruise stated that Greenland Realty is still creating problems with a lack of dust control. The same problem was noted one year ago—problems from the trucking business that continue at the site. Geoffrey Colegrove will visit the site to investigate the dust control measures in place. Because of the dead trees in the buffer, snow plows, trailers, backhoes, piles of dirt, etc., are visible to the neighbors.

3. Joseph Pasquale, Request for Zoning Text Amendment, Section 06. "Commercial Districts," to Reduce Maximum Size of a Single Structure to 30,000 sq. ft. from current 40,000 sq. ft.

Joseph Pasquale addressed the Commission. He is a resident of Parmelee Hill Road (and a Durham resident for 46 years). He is proposing a change to the regulations for the commercial district in Durham, adding that he is the property owner of a piece of property in this zone. He is proposing that the maximum square footage of a building in the commercial zone be reduced from 40,000 square feet to 30,000 square feet. The motivation is to "retain the character of the town while allowing for growth and protecting current businesses." He stated that his request is being made not only on his

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own behalf, but on the behalf of many in the community. He praised the efforts of many of Durham's lifelong residents in shaping the town that Durham is today.

A petition signed by 600 citizens was presented to the Commission.

George Eames stated that before any changes can be made by the Planning and Zoning Commission to the regulations, a public hearing must be scheduled and held. Because of the petition for change, the Commission will accept the request for a public hearing—it will be held the first meeting in September, September 5, at the library at 8:00 p.m. The petitions should be presented at that time; in addition, people can speak in favor and in opposition to the change at that time so that it is a matter of the public record.

Motion by Ralph Chase, seconded by David Foley, to hold a public hearing regarding the request for a zoning text amendment to Section 06, Commercial Districts on September 5, 2007, at 8:00 p.m. Motion carried unanimously.

A resident noted that 600 people had signed petition; she suggested that moving the hearing to the high school might be appropriate, given the anticipated crowd and limited parking available at the library. George Eames noted that the meeting room at the library can accommodate a fairly large crowd.

4. Tilcon Inc., Request for the Renewal of an Earth Excavation and Removal Permit, South Side of Wallingford Road

Frank Lane addressed the Commission, presenting the annual permit renewal for Tilcon Minerals, Inc. He described the plan as unremarkable, reflecting the orderly progression on mining at the plant. For the next year, 1,200,000 tons of basalt is proposed for removal (slightly more than last year). To Tom Russell's question regarding the quantity mined in the recent year, about 9,800,000 tons of crushed stone was mined (less than the 1,000,000 tons estimated).

Ralph Chase stated that the application had come before the Conservation Commission; there was no comment.

Motion by Richard Eriksen, seconded by Ralph Chase, to approve the request for a 1-year renewal of an earth excavation and removal permit for Tilcon, Inc. south side of Wallingford Road. Motion carried unanimously.

5. Hugh Cox, Request for Release of Bond, East Woods Road

Attorney John Corona addressed the Commission on behalf of Hugh Cox's project. Part of the bond is recommended to be retained (for grass growth), per the town engineer. He stated a preference that the full amount of the bond be released so that he would not need to return to the Commission for the final \$2,156.00. Despite Mr. Cox's reputation,

Richard Eriksen stated that the Commission's practice is to follow the guidelines of the town engineer.

One of the neighbors in East Woods commented on problems with the private driveway and had questions about the final paving (a safety and drainage issue). However, this is not a town road. Attorney Corona stated that the town engineer has been involved extensively supervising the construction of the road. Geoffrey Colegrove stated that there is a public improvement inspection fee (which also includes driveways and private roads approved by the Commission); this is why the town engineer is involved. However, the Public Works Department does *not* have any involvement whatsoever with the project.

The developer pays a 3% fee of the value of the cost of construction of the road to the town to pay for the town engineer's costs. Brian Curtis would not be recommending release of all but \$2,000 if he were not satisfied. Geoffrey Colegrove pointed out that the Commission has no authority to go back and change the approved design specifications.

Attorney Corona stated that Brian Curtis was on site with the pavers when the second course of work was completed. He directed several field changes to be made in the paving at that time. He suggested that the Commission rely on the town engineer's judgment.

The resident again talked about the problems during rainstorms that perhaps the town engineer has not seen. That is his concern prior to release of the bond. George Eames stated that the complaint would be forwarded to the town engineer. Geoffrey Colegrove will arrange for Brian Curtis to contact the resident.

Motion by Richard Eriksen, seconded by David Foley, to approve the request for the release of all but \$2,000 of the erosion and sedimentation bond for East Woods Road, Applicant: Hugh Cox. Motion carried unanimously.

6. Aberdeen LLC, Modification to Site Plan, CT Route 17 and Stagecoach Road

Attorney John Corona addressed the Commission regarding the Aberdeen project on Stagecoach Road. Part of the project included renovation of the existing house on the site—making the two-family house a unit. In the course of work on the house, it has been determined that the house is not worth saving. The developer would like to replace that house with a "Chatham" unit (already approved elsewhere on the site). The density will not change at all for the project. The house will have its own septic system.

To Frank DeFelice's question, Bob Bascom stated that the footprint of the proposed building is 40' x 50'. It is quite similar to what exists already on the site.

Motion by Richard Eriksen, seconded by Jim Kowolenko, to approve the modification to the site plan for Aberdeen LLC, CT Route 17 and Stagecoach Road, to replace the

existing brick house with a new unit with its own septic system and using the common water system. Motion carried unanimously.

7. William and Francine Loveland, Request for a Proposed 2 Lot Subdivision, Dead Hill Road

Attorney John Corona described the proposed plans briefly for the proposed two-lot subdivision and Bob Bascom explained the details of the project and detailed the layout of the lots. The front lot is 2.62 acres for the father's existing house. The new lot is 2.9 acres.

Motion by Richard Eriksen, seconded by Frank DeFelice, to approve the request for a proposed 2-lot subdivision on Dead Hill Road. William and Francine Loveland, Applicant/Owners. Motion carried unanimously.

8. Lino Aparo, Request for a Modification to the Site Plan for Addition of Cooler, Front Entrance and Delivery Elevator, 472 Main Street

Attorney John Corona stated that the Commission had previously seen and approved the project. He added that Mr. Aparo continues to give careful thought to ensuring that the site will work well. He is seeking to modify the site plan slightly in order to allow a below-grade cooler in one location, a freight location, and an airlock vestibule at the front of the building. A variance was obtained from the Zoning Board of Appeals in order to be able to make the necessary changes (setback lines). The site coverage limit is maintained and the parking situation has not changed.

Motion by Ralph Chase, seconded by Frank DeFelice, to approve the modification to the site plan for the addition of a cooler, front entrance and delivery elevator at 472 Main Street. Applicant: Lino Aparo. Motion carried unanimously.

9. Payment of Bills

Motion by Ralph Chase, seconded by Frank DeFelice, to approve the following bills:

- Midstate Regional Planning Agency – \$5,260.71 (June bill)
- William Wrang, Jr., State Marshal - \$50.00 (delivery of letter to Patrick Bufford and James Cournoyer)
- Jan Melnik, Absolute Advantage - \$431.30 (minutes of June 20, 2007)
- Midstate Regional Planning Agency - \$192.70 (Zoning Regulations and Road Specifications)

Motion carried unanimously.

10. Minutes of Previous Meeting

Motion by Michael Geremia, seconded by Ralph Chase, to approve the minutes of the June 20, 2007, meeting as submitted. Motion carried. All in favor with the exception of Tom Russell and Mark Laudano (in abstention).

11. Town Planner's Report

Geoffrey Colegrove indicated that no application had been received for the Dahlmeyer property at the south end of town. Several residents in attendance asked about the application for the "Big Y" that is being discussed; the Commission clarified that the Planning and Zoning Commission has no control over such an application being submitted (one has not been rendered to date).

12. Miscellaneous

Dave Foley asked the status of the Arrigoni application before the Zoning Board of Appeals; Gene Riotte, in attendance at that meeting, stated that the matter was continued to the August 9th meeting of the Zoning Board of Appeals. Geoffrey Colegrove did apprise the chairman that there is a prohibition against use changes for zones by the ZBA—but only for the farm-residential zone. Dave Foley recommended that a motion be made and position statement sent along to the Zoning Board of Appeals, citing the time and expense taken on by the Planning and Zoning Commission in carefully considering the application of the Arrigonis. This is all the more important because of the costs involved in successfully defending the original decision of the Planning and Zoning Commission.

Dave Foley and Richard Eriksen discussed the seriousness of the ZBA possibly considering allowing the mining of bedrock in farm-residential zones. It needs to be retained in the heavy industrial zone, according to them. Richard Eriksen stated that this action points to the real reason for the original application—not to construct several buildings (for which removal of bedrock was required) but, rather, the removal of 75,000 cubic tons of material—i.e., a full-scale mining operation.

Geoffrey Colegrove stated that the decision cannot be overturned. The variance—if approved—would only allow for mining of bedrock in a non-heavy industrial zone. However, a site plan and application would still need to come back before the Planning and Zoning Commission.

Motion by David Foley, seconded by Jim Kowolenko, for the Planning and Zoning Commission to send a letter to the Durham Zoning Board of Appeals reiterating the Commission's position that the mining of bedrock being duly considered by this commission be restricted to the Heavy Industrial Zones. Motion carried. All in favor with the exception of Tom Russell (in abstention).

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Frank DeFelice stated that he was informed by someone that the agenda is not being posted on the town website in a timely fashion. Someone in attendance stated that the agenda for this evening's meeting was not posted, even as of the date of this meeting. In addition, the minutes for the June 20th meeting repeat those from June 6th. Geoffrey Colegrove stated that there is no control on how things are posted at town hall. There is no legal requirement for posting on the internet.

Ralph Chase expressed concern with two maple trees on state property at Grippos. Both trees have been trenched, with one tree deeply scarred. He is worried that the trees will not survive. He is curious to see the site plan to check the status of these trees; supposedly brick will be placed around the trees (in other words, every effort will be made to kill the trees).

The Commission discussed the proliferation of wire and sandwich board signs at the north end of Main Street; Geoffrey Colegrove will ask Ed Grimes to take a look at these. There are also signs in the area of the Dari-Serv.

Motion by Ralph Chase, seconded by Jim Kowolenko, to adjourn the meeting at 8:40 p.m. Motion carried unanimously.

Respectfully submitted,

Jan Melnik

(8/7/07, expanding 7/19/07 draft minutes originally filed)