

TOWN OF DURHAM

Planning and Zoning Commission

P.O. Box 428

Durham, Connecticut 06422-0428

MINUTES OF JULY 5, 2006, MEETING

Present

Members: Brian Ameche, Ralph Chase, George Eames, Richard Eriksen,

Dave Foley, Tom Russell

Town Planner: Geoffrey Colegrove

Alternate: Jackie Snow

Absent

Members: Jan Melnik, Jim Kowolenko, Dian O'Neal

Alternates: Frank DeFelice, Gene Riotte

The meeting was called to order by George Eames Chairman, at 7:30 p.m.

Jackie Snow was seated on the Commission in Jim Kowolenko's place.

1. Approval of Agenda

Motion by Dave Foley, seconded by Richard Eriksen, to approve the agenda of the July 5, 2006, meeting as amended to reflect items #7 (Sherry Tyman, informal discussion of possible doggie day care, CT Route #68) and #10 (Katherine Wakeman Forline, request for a home occupation permit for a massage therapy office, 957 New Haven Road) being tabled. Motion carried unanimously.

2. Public Session

Henry Bugai, Powder Hill Road, addressed the Commission. He noted a complaint about John's Garbage Removal Service, typically on Mondays. Newspapers collected are not covered in the trucks and they blow all over the lawns. Despite calls to the office and

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promises issued, the trash is not picked up. It was recommended that he mention this to the Board of Selectmen (and Jim McLaughlin, who, as First Selectman, is also the Chief of Police).

An additional item of concern is the mud/dirt on the road. Water has been pumped from the brook into the pond. All of this took place on a holiday, July 4th, with the pump left running all day.

Geoffrey Colegrove indicated that the pond has been inspected and is still leaking; it is in the process of being repaired.

Harry Hall, speaking on behalf of the fire department, addressed the Commission. He stated that there will be an interim tank on the site.

Geoffrey Colegrove stated that a letter is forthcoming from Attorney John Corona regarding the steps the applicant will be taking to remedy the situation. He will follow up on this to determine the status of the fire pond.

Henry Bugai reported that there is a continuing problem with dust and dirt, in particular the dust problem at his daughter's home and dirt in her pool on a daily basis.

Geoffrey Colegrove read into the record a letter speaking to Henry Bugai's concerns regarding road access being blocked, pool cleaning, and the cleaning of the house.

Harry Hall stated that there is still difficulty with access by the fire department vehicles in the area where the new road makes the turn into the former access.

Sandy Kovach addressed the Commission regarding the retaining wall on Rory Wilson's property; she had asked several meetings ago about the possibility of a fence being installed. Geoffrey Colegrove stated that Rory Wilson will be making a site plan amendment application to the Commission shortly; the Commission will consider the fence issue at that time.

The second matter is dust control at Greenland Realty, which has been an ongoing problem.

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

A site inspection was scheduled for Saturday, July 8, at 9:00 a.m.

4. Ronald Matjas, Request for a Home Occupation Permit for a Business/
Professional Office, 437 Main Street

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The applicant was not present again. A letter will be sent to inquire what his intentions are.

5. Glen Yates, Request for a Proposed One-lot Subdivision, 171R Harvey Road

Attorney John Bennet addressed the Commission on behalf of Glen Yates. The engineer for the project was unable to attend the meeting. A map of the proposed one-lot subdivision was presented.

One lot will be a little over 6 acres and the other will be 15 acres in size. Glen Yates is planning to construct a new house and barn on the 15-acre site. The application has been approved by the Inland Wetlands Commission. Access to the site will be along an existing dirt trail. Gravel will be added to stabilize the access driveway.

Attorney Bennet will be making the following waiver requests in writing. In terms of open space the property is surrounded by state forest. There are numerous wetlands around the proposed areas of development, which will allow for de facto open space. Therefore, the applicant is seeking waiver of the open space requirement. The applicant is also seeking waiver of the requirement to tie to the Connecticut Coordinate Grid System because of the remote location. The applicant would also like to combine the record subdivision map and the site development plan. There are no public facilities. Finally, the applicant would like to be able to use a 50-scale map in lieu of a 20-scale map (the latter would require several pages to make up the map).

The proposed separating line between the two lots, which requires a driveway easement for the original lot, is because of the natural ridge line on the property. The proposed driveway will be about 500 feet in length.

The Conservation Commission has not yet reviewed the application. It will be reviewed at the July 11 meeting.

Glen Yates stated that there is an error in the town's records—some of the land marked as state forest is actually owned by Ray Kalinowski. This should be investigated and corrected.

Brian Ameche reminded the applicant that the limits of clearing need to be shown on the site plan.

A site walk is scheduled for Saturday, July 15, at 9:00 a.m.

6. Eric Chester, Informal Discussion of Possible Variance to the Minimum Rectangle Regulation, South End Avenue

A variance to the minimum rectangle regulation is being sought for the property owned by Mrs. Stannard. The lot is 2.36 acres; of that, .76 is subject to a use easement granted to

Mr. and Mrs. Hall. That leaves 1.6 acres free of any encumbrances to would-be buyers. Mrs. Stannard is planning to sell the house and property. The easement is now an obstacle.

The easement was granted in perpetuity to the Halls. The Halls have agreed to reduce the size of the land subject to the easement. The easement would be reduced from .76 acres to leave Mrs. Stannard with 2.01 acres free of any encumbrances.

Geoffrey Colegrove stated that what was really being sought was a lot line adjustment.

The minimum rectangle falls within the .76 acres encumbered by the easement, hence the request for the waiver.

Only the subdivision regulations can be waived by the Planning and Zoning Commission. The Zoning Board of Appeals would need to be approached to waive the zoning regulations. The Planning and Zoning Commission, by statute, cannot waive its own zoning regulations. The action of the Planning and Zoning Commission on the request of waiver of the minimum rectangle in the subdivision regulations would, however, be a signal to the Zoning Board of Appeals.

Brian Ameche stated that the Planning and Zoning Commission went through an extensive process to put in place two-acre minimum zoning. He stated that what had been presented before the Commission did not reflect hardship to waive the minimum rectangle in this case. He doesn't think it's in the best interest of the town to effectively allow an additional lot.

Geoffrey Colegrove stated that lot #2 is the new lot—it is an interior lot. Brian Ameche stated that if the Commission is provided with something that would preclude the subdivision of the larger lot, then the request might be reasonable. The applicants are willing to place a note on the lot indicating that it would not be further subdivided. Because of the conservation easement and requirement for two minimum rectangles to create two lots, it would not be possible to further subdivide lot #2. Geoffrey Colegrove recommended that language state that the applicant has agreed that lot #2 shall not be further subdivided as a condition of obtaining the waiver of the minimum rectangle.

Motion by Ralph Chase, seconded by Jackie Snow, to waive the minimum rectangle requirement of the subdivision regulations with the condition that a new map be submitted designating that lot #2 will not be further subdivided. Motion carried unanimously.

7. Payment of Bills

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

- Midstate Regional Planning Agency — \$6,080.92 (May)

- Midstate Regional Planning Agency — \$7,439.72 (June)
- Absolute Advantage - \$259.59 (minutes)
- Absolute Advantage - \$2,531.10 (transcripts, Hannah Enterprises)
- CT Federation of Planning and Zoning Associations - \$90.00 (annual dues)
- Attorney Tom Byrne — \$1,700.00
- *Middletown Press* — \$670.82

Motion carried unanimously.

8. Approval of Minutes

Motion by Ralph Chase, seconded by Jackie Snow, to approve the minutes of the June 21, 2006, meeting as presented. Motion carried unanimously.

9. Zoning Enforcement Officer's Report

A notice from Brunnell Builders, 125 Cedar Drive, was received; George Eames indicated that he did not believe a home occupation permit had been issued for this purpose.

10. Miscellaneous

George Eames advised that the Commission won the case brought by Brian Esparo; the applicant has until July 10 to appeal the decision. Attorney Tom Byrne will apprise the Commission of what happens.

Richard Eriksen stated that Tom Byrne's letter to the Commission points out that unless something is specifically mentioned in the regulations, it is not allowed (i.e., a permitted use).

Geoffrey Colegrove wrote a letter to J&T Property Management, Ozick Drive, concerning the sign situation along Route 68. A deadline of July 5 was provided for bringing the signage into compliance.

Richard Eriksen recommended adding the ZEO information to the packet and providing a copy to Ed Grimes.

Geoffrey Colegrove stated that he had followed up on Brian Ameche's request regarding a previous recommendation from Attorney Tom Byrne—making common driveways by special permit. Proposed language for discussion purposes was distributed. Geoffrey Colegrove suggested that three lots be the minimum threshold to consider applying this to. He also suggested that it be applicable to the farm-residential zone. Because there is a special permit, bonds are allowed.

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Brian Ameche noted that the Commission recently reviewed an application for the north end of Main Street (former Parsons site) where the language in the regulations was adapted to allow a common driveway for commercial use. Geoffrey Colegrove stated that language had been added to the subdivision regulations indicating that "Accessways in light industrial zones serving more than two parcels may be designated as a private road by the Planning and Zoning Commission. Such road shall comply with all the standards set forth in Section 06.04 of these regulations pertaining to private road design and construction, including the requirement for having a bituminous wearing surface." Geoffrey Colegrove suggested that this sentence could be added from the subdivision regulations. This will be sent for regional referral as well as Attorney Byrne's review.

Brian Ameche stated his feeling that the Commission should be aware that he has been sued by Attorney John Corona on behalf of a client for his (Brian's) actions as a member of the Planning and Zoning Commission. The town attorney will defend Brian as well as the town (also a party to the lawsuit).

Motion by Richard Eriksen, seconded by Brian Ameche, to adjourn the meeting at 9:00 p.m. Motion carried unanimously.

Respectfully submitted,

Jan Melnik

7/25/2006