

# TOWN OF DURHAM

## Planning and Zoning Commission

P.O. Box 428

Durham, Connecticut 06422-0428

### MINUTES OF JUNE 21, 2006, MEETING

#### Present

Members: Brian Ameche, George Eames, Richard Eriksen,  
Dian O'Neal, Tom Russell

Town Planner: Geoffrey Colegrove

Alternate: Frank DeFelice, Gene Riotte, Jackie Snow

#### Absent

Member: Ralph Chase, Dave Foley, Jan Melnik, Jim Kowolenko

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

Gene Riotte was seated on the Commission in Jan Melnik's place. Jackie Snow was seated on the Commission in Jim Kowolenko's place. Frank DeFelice was seated on the Commission in Dave Foley's place.

#### 1. Approval of Agenda

Motion by Brian Ameche, seconded by Jackie Snow, to approve the agenda of the June 21, 2006, meeting as amended to reflect the deletion of item #7, Jim Gibbons (cooperative extension educator, discussion of earth excavation and removal). Motion carried unanimously.

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2. Public Session

No business.

3. David Lavine, Release of Bond, Troutlily Drive and Goldfinch Road

Geoffrey Colegrove distributed the stipulated agreement reached in this matter. The bond will be released to a law firm, after which it will be distributed by the law firm among the parties to the agreement.

Brian Ameche asked if a change to the regulations has been made, as Attorney Tom Byrne has recommended; this has not yet occurred, but will be placed on the next meeting agenda.

Motion by Richard Eriksen, seconded by Jackie Snow, to approve the release of the bond for Troutlily Drive and Goldfinch Road to the law firm of Murtha Cullina, LLP. Motion carried unanimously.

4. Sherry Tyman, Informal Discussion of Possible Doggie Day Care, CT Route #68

Geoffrey Colegrove stated that the applicant is considering applying for such a facility in the DiNatale commercial storage space on Route 68 (across from Mountain Road). While child day care facilities are permitted in the same zone in the regulations, doggie day care is not addressed in the language.

Sherry Tyman addressed the Commission regarding her plans. She discussed using two storage bays, one for an office and the other for the doggie day care facility. There would be an outside area (fenced) for playtime as well. People would drop their dogs off for day care during the day only. Mobil grooming may be provided, but not by her. Because there is no one there during the day, it would not disturb anyone. She anticipates 20-25 dogs (50 square feet per large dog, 25 square feet per small dog, per industry standards). The business would operate from 7 a.m. until 6:30 p.m. She does not anticipate being open on weekends.

Richard Eriksen stated that when the site was originally approved, it was for specific uses. This would need to be reviewed. A change of use for the zone would need to be made. The zone currently doesn't specifically allow this at the present time.

To Frank DeFelice's question about what would happen if someone is late in picking up their dog, Sherry Tyman indicated that she would not leave any dog there. The industry provides for charging a \$1 each minute a dog is picked up late.

Richard Eriksen indicated that first a change to the use table would need to occur; then a zone change would need to happen before this application could be considered. The application would need to be handled by Pat DiNatale. Geoffrey Colegrove stated that there is a difference between kennels and doggie day care.

Frank DeFelice questioned why the Commission is approached on such matters as these as opposed to requests for variances from the Zoning Board of Appeals. What appears to happen are spot zoning requests. Brian Ameche stated that the ZBA cannot change a use—that applicants must come before the Planning and Zoning Commission on such requests.

Brian Ameche suggested that a map of the site would be useful, given the size of the site. He also asked for a review of the history of the regulations, which indicate that boarding is not allowed in the regulations (evidently considered to be a more intense use).

Brian Ameche suggested that the original uses approved for the storage facility on Route 68 be reviewed by the Commission. He would also like the original maps and perhaps transcripts covering discussions of what was originally permitted on the site.

5. Dion Arrigoni, Request for Release of Bond, Cream Pot Road

Geoffrey Colegrove indicated that he and Brian Curtis had inspected the designer subdivision just to the south of the town garage. There has been some erosion at the site. Photographs were presented for the Commission's consideration. There is one lot remaining to be developed.

There is evidently a dispute between the people who already reside in the area and the condition of the road and the obligation of the developer. Brian Ameche stated that the Commission should stay out of the situation, but hold back what Brian Curtis has recommended (\$3,800) and let the parties resolve the completion of the roadway.

Motion by Brian Ameche, seconded by Richard Eriksen, to approve the release of bond for Cream Pot Road, holding back \$3,800. Motion carried unanimously.

6. Laura Milano, Informal Discussion of Possible 1 Lot Subdivision, 1147  
New Haven Road

Chris Juliano, the engineer representing Laura Milano, addressed the Commission regarding the 12.9 acres owned on New Haven Road (old Neubig subdivision on the west side of Route 17, just past the Northford line). The applicant is considering building a home on what would be a newly created rear lot (because of difficult grade, the entire property will allow for just this one lot). A driveway would be about 1,100 feet in length and, at a 15% slope, would be paved. No material would be removed from the site in the course of development and construction.

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Tom Russell suggested possible access to the site from Mountain View Terrace. It was also noted that the back of the property abuts the Wallingford Water Company property.

To Frank DeFelice's question regarding crushing of material on site, Chris Juliano stated that only whatever blasting was necessary to create a foundation/basement would be done. Chris Juliano stated that this was an informal presentation only to assess the Commission's sentiment about the slope of the site and possible development.

Geoffrey Colegrove suggested that an easement be considered prohibiting future development if this is approved (i.e., no further subdivision, outbuildings, etc.).

The Commission discussed holding a site walk because of the limitations of the site. The site walk will occur at 9 a.m. on Saturday, July 8<sup>th</sup>.

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

This is the property directly across from M&M auto (where a line of trees was recently planted on a berm). The applicant was not in attendance.

8. Payment of Bills

Motion by Brian Ameche, seconded by Jackie Snow, to approve payment of the following bills:

- Absolute Advantage - \$454.90 (minutes, May 17, 2006)
- Absolute Advantage - \$598.55 (transcript, Greenland Realty)
- Absolute Advantage - \$466.08 (minutes, June 7, 2006)
- Midstate Regional Planning Agency — \$35.50 (road specification copies)
- Attorney Tom Byrne — \$2,275.00 (Greenland Realty)
- *Middletown Press* — \$68.30
- *Middletown Press* — \$73.25

Motion carried unanimously.

9. Approval of Minutes

Motion by Gene Riotte, seconded by Tom Russell, to approve the minutes of the June 7, 2006, meetings as amended to reflect deleting the Grippo motion on page 3 (it is already on page 8) and changing Dian O'Neal's comment to "discussed," not "addressed" on page 6. Motion carried, 5-1, with all in favor with the exception of Brian Ameche (in abstention).

10. 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.

11. Town Planner's Report

Geoffrey Colegrove advised that a letter had been sent to Signature Gordon regarding the dust problem. In addition, the originally approved fire pond will need to be redesigned following a recent leak. Access to the original Powder Hill Road is desired by the fire chief. Brian Ameche stated that this is not right—the fire chief does not have the opportunity to make this change to the site plans once approved by the Planning and Zoning Commission.

Geoffrey Colegrove stated that the developer is amenable to making the desired change, given that the original installation was not satisfactory. A revised site plan will be necessary (requiring a return before the Commission).

George Eames asked that the situation regarding signage on Ozick Drive be revisited. Ample notice has been provided. One more letter will be sent and if signs are not removed by the next meeting, the signs will be removed in two weeks.

In addition, parking continues to occur on both sides of Ozick Drive despite the posting of no parking signs. There was evidently graduation at the day care center.

The hearing sign for the hot dog stand is still in place on Route 68 and should be removed by Mr. Gribko.

A suggestion was made to have a standard sign noting a public hearing and date but without details; a \$75 deposit to the town for use of the sign would be required. This would be returned to the applicant upon return of the sign.

12. Miscellaneous

George Eames stated a letter was received from the McGuire Group regarding the Middletown sewer/water department. There is no relevance to the Commission.

Brian Ameche advised that the committee that is revising the town charter has taken the recommendation of John Corona to institute term limits on members of boards and commissions in the community (three terms per member). The second thing proposed was that an individual cannot participate on two separate commissions or boards. Brian Ameche added that he had attended the public hearing and the Charter Revision Commission appears convinced of the merits of these proposals. He stated that he testified against these proposals at the hearing, finding them detrimental to the town of

Durham (he believes they will eliminate institutional memory and eliminate cross-fertilization that occurs when a person serves on more than one board/commission) and noted that they will weaken land-use regulations. He suggested that the Planning and Zoning Commission should be attentive to this matter. He believes them both to be “very bad ideas” promoted by someone who brings business before the subject commission on a regular basis.

Dian O’Neal asked why Brian Ameche thought these were bad ideas. His reply was that with regard to serving on more than one board or commission, most towns in Connecticut require two boards or commissions of some of their members (some require more than two). The rationale is to permit cross-fertilization among boards and commissions. An environment is thus created where individuals are more informed, more responsive, and better able to understand what is happening in the community. This enables better decisions. He cited the example of Gene Riotte attending ZBA meetings and reporting back to the P&Z Commission as a liaison. Richard Eriksen provides the same role sitting on the Inland Wetlands Commission and then providing P&Z with invaluable information. This has nothing to do with blurring jurisdictions. Instead, it is respectful of jurisdictions yet appreciative of the value of cross-fertilization.

Brian Ameche stated that there is a notion of a concentration of power in too few hands and that the interests of the community are not served by a concentration and possible abuse of that power. He added that he would challenge anyone to cite where this has actually occurred. He does not find the argument to have merit.

With regard to the notion of violation of due process with a commissioner sitting on Inland Wetlands and P&Z, for instance, and the thought that that person has already evaluated a project and made a judgment and, therefore, is unable to review the subject application within a new context, he takes exception to this argument as well.

Brian Ameche reiterated his belief that the proposals are not good ideas. They have been presented by someone with an “overt conflict of interest” in this matter. He finds it to be a manipulative effort. It affects him (Brian Ameche) and it affects the town of Durham, both of which he takes personally.

To George Eames’ query about support at the hearing, Brian Ameche stated that John Corona had done a good idea promoting the idea. He observed debate at the meeting; it was 8 to 1 in favor of leaving those two items in the draft that is going to the Board of Selectmen. Martin French was the dissenting voter. This issue will be discussed at a hearing held by the Board of Selectmen shortly. He encouraged commissioners to attend and voice their opinions, regardless of stance. He summarized that these proposals will affect land use in Durham, will weaken the decision making of boards and commissions, and will take some of the “best and brightest” out of the game. Further, it relies on the false assumption that there are talented people in the community who are not getting an opportunity to participate. He finds this latter argument ludicrous (i.e., the idea has been presented that because there are people like Brian Ameche, George Eames, or Richard

Eriksen who continue to serve, others in the community are not being permitted to participate in land-use matters). Everyone serving on these commissions is elected by the voters in town. Term limits undermine the concept of democratic elections, in Brian Ameche's opinion.

George Eames and Richard Eriksen stated that the presenter of the proposals is following a self-serving path. Frank DeFelice noted that he has observed similar steps taken in other towns (term limits or limitation of serving on just one board)—and the ultimate outcome is that there are an enormous amount of vacancies on various boards. There are simply not enough people to serve. He endorsed Brian Ameche's position.

Brian Ameche also noted that there is a strategy at play to take various sections of the revised charter (including these point-specific proposals) and separate them into line item questions that can be voted up or down. Both Jim McLaughlin and Rene Primus stated at the hearing that these items were enough to "kill the approval" of the revised charter. Laura Francis suggested that by separating these into line items, the entire charter would not necessarily be defeated. Brian Ameche added that this would enable the "troops to rally" to vote one way or another on a specific question, thus undermining the position of the Planning and Zoning Commission, according to him, that they are both bad ideas. He further believes that the forces promoting these proposals, which are not in the best of interest of Durham, are entirely self-serving.

To Richard Eriksen's question regarding the membership of the Charter Revision Commission, Geoffrey Colegrove stated the membership comprises John Corona, Laura Francis, Martin French, Carol Kleeman, Betty Wakeman-Long, Mark McLaughlin, Ron Melnik, Pat Murawski, and Alice Tucker. Mark McLaughlin is chairman.

Brian Ameche stated that in reading the charter revisions, it was his impression that it was not a particularly good job. He believes that the commission could have "drilled deeper," there could have been more detail, and there is much that is lacking in the document that was presented. He was at the recent hearing for four hours, read the document several times, and finds the document "awfully muddy" in certain areas. It is not "ace" work, regardless of what is represented.

Frank DeFelice stated that if the proposals around term limits and board restrictions are presented as line items, these matters are at the very core of town charter. He doesn't believe they should be broken out as separate questions. He thinks it is integral to the entire concept of town government.

Brian Ameche again encouraged participation by commission members in subsequent hearings about the charter.

Motion by Gene Riotte, seconded by Frank DeFelice, to adjourn the meeting at 8:52 p.m. Motion carried unanimously.

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Respectfully submitted,

Jan Melnik  
6/28/2006