

# TOWN OF DURHAM

## Planning and Zoning Commission

P.O. Box 428

Durham, Connecticut 06422-0428

### MINUTES OF MARCH 21, 2007, MEETING

#### Present

Members: Ralph Chase, Richard Eriksen, Dave Foley, Jim Kowolenko,  
Tom Russell

Town Planner: Geoffrey Colegrove

Alternates: Brian Ameche, Mike Geremia

#### Absent

Members: Frank DeFelice, George Eames, Dian O'Neal, Gene Riotte

The meeting was called to order by Richard Eriksen, Vice Chairman, at 7:30 p.m.  
Mike Geremia was seated on the Commission in George Eames' place.

#### 1. Approval of Agenda

Motion by Ralph Chase, seconded by Dave Foley, to approve the agenda of the March 21, 2007, meeting as amended to include 90-day extension for filing of mylars (16a), Stone Bridge. Motion carried unanimously.

#### 2. Public Session

Dave Dingwell asked if the Commission had a plan relative to the Rory Wilson/  
Distinctive Building, LLC, modification to site plan request, given that the timeline for approval is nearly expired (the applicant has not been present for the past few meetings).

Richard Eriksen noted that the Commission was aware of the approaching deadline and would take action accordingly.

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### 3. Zoning Enforcement Officer's Report

Geoffrey Colegrove stated that three letters had been prepared in response to the zoning compliance issues raised on Brittany Drive.

A letter was sent to 54 Clementel Drive; the property is apparently being used for a construction facility for a home remodeling business.

A letter has also been sent to Haddam Quarter Road on a similar matter; there is a construction company operating with heavy equipment, a paving machine, tri-axle truck, flatbed truck, and utility van.

A letter was received from the attorney representing Murphy Pool regarding the lights that have been changed that are now supposedly not in compliance with the site plan; Geoffrey Colegrove will review against the approved site plans and determine if there is any non-compliance.

Geoffrey Colegrove advised that a decision was reached on the appeal of the Dolphin Day Care case in favor of the Planning and Zoning Commission. This decision frees up any issues relative to future certificates of occupancy being granted for the new Dolphin Day Care facility.

### 4. Brian Esparro, Update of Property, 36 Bailey Road

The site walk scheduled for March 16 could not be held because of the major snowstorm. It will be held on Saturday, March 24, at 9 a.m.

Brian Ameche was seated on the Commission at 7:38 p.m. in Dian O'Neal's place.

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

Geoffrey Colegrove stated that the Commission had asked that the town engineer, Brian Curtis, review the site plans to inspect the desired modifications to paving, guardrails, and drainage. He stated that if the Commission does not approve the modified plan, the site plan will need to be completed or a bond will need to be posted before certificates of occupancy can be issued. Brian Curtis found no technical issues with the proposed revisions.

Major issues include not paving on the east or south of the building (the west side has been completed). Also the applicant is requesting a substitution of metal beam guardrail for the previously approved wood guardrail.

Rory Wilson read into the record a letter stating his concerns. He noted that his engineer, Frank Magnotta, had addressed all comments and concerns. He added that the town

engineer, Brian Curtis, stated he had no problems with the gravel being used in lieu of pavement. For whatever work is not completed, a bond will need to be posted before a certificate of occupancy will be issued.

In terms of signage, because he will have more than ten tenants, a 60 square-foot sign is allowed (instead of the smaller 30 square-foot one).

With respect to guardrails, Rory Wilson stated he would add guardrail wherever needed at Brian Curtis's request once the final grading is complete.

Dave Foley noted that if the Commission were to approve the modifications to the site plan, then Rory Wilson would not be obligated to do any future paving.

To Tom Russell's question about the propane tanks, Rory Wilson indicated they are not next to a parking lot; there is a separating rip rap swale and an embankment leading to the area where they are. The fire marshal has provided information regarding where they should be relative to property lines and the building.

Rory Wilson stated that, in his opinion, the requested modifications do not affect the nature of the project or the site, nor are they major changes according to the regulations. There is no change in use, no significant change in landscaping, and no impact on the drainage system.

He stated that he could find nothing in the regulations that would disallow use of gravel as he is now proposing in lieu of pavement. The paving at the back of the property was done to satisfy neighbors' dust concerns. He pointed out that all engineering concerns have been addressed. He felt that to impose new restrictions now, following the original site plan approval, would reduce the value of his property. Requiring such changes at this late date would discourage development in town. He believed his property should not be singled out and held to a different standard.

Rory Wilson also stated that both Greenland and Housewright/Nosal had reduced pavement on their sites and substituted gravel. However, Commission members noted that these were not traffic areas, unlike Rory Wilson's project. Brian Ameche stated that if a mistake had been made with those properties, the Commission has an opportunity to correct the situation here. He stated his belief that the requested modifications to the original site plan were substantial and economics-driven.

Dave Foley stated that there are drainage changes as well—going from pavement to stone has an impact, as does the use of leakoffs instead of curbing and berms.

Brian Ameche noted that geotechnical information had not been presented. He recalled previous testimony that the soils on the property are not good and those are the areas that are proposed to not be paved. A reasonable argument could be made, in his opinion, that there are public health, safety, and welfare issues in an area that isn't stable.

Rory Wilson noted that he will pave the whole site eventually. There are two soft spots in front of the building; they are trying to determine if these will settle or if they need to be dug out, refilled, and stabilized. He stated his tenants will ultimately want paving.

Dave Foley stated that the Commission should not be permanently approving emergency access around a building that is not paved.

Richard Eriksen reminded Rory Wilson that at an earlier site walk, it was represented that the complete paving would occur by this fall—not two years from now.

Geoffrey Colegrove stated that the Commission can approve, modify, or deny the request for modification to the site plan.

The Commission discussed the guardrail substitution. The core-10 with wood facing option will be satisfactory; these are used elsewhere in town.

Dave Dingwell, Mountain Road, pointed out that the hours of construction operation were still an important issue, along with hours of operation for the facility.

Diana Cruise, Mountain Road, pointed out that there are still problems with hours of activity at the Greenland site.

Motion by Dave Foley, seconded by Ralph Chase, to approve the application of Rory Wilson, request for modification to site plan, 45R Ozick Drive. Motion denied, 5-2, with Ralph Chase, Tom Russell, Richard Eriksen, Brian Ameche, and Dave Foley voting in opposition and Mike Geremia and Jim Kowolenko voting in favor.

For the record, it was noted that Mike Geremia inadvertently voted yes, but it was his intention to also vote in opposition to the motion.

6. Christina Ziemba, Request for a Home Occupation Permit for Office for Home Care Agency, 65 Wildwood Lane

Christina Ziemba approached the Commission regarding her home-based business. She will have a small office that is within the requirements for a home-based business in her home. There will be no traffic or clients/patients in her home; it is strictly an office for conducting the business, paperwork, telephone, and fax. She is the only nurse working in the business. Once the business begins to grow, she plans to move the business out of her home into a professional office. There will be no sign and there are no employees.

To her question regarding how long the permit is in effect, the time is unlimited provided that she lives in the house and the business remains the same as characterized. If she moves from the house, the permit does not “move with her,” nor can anyone else assume her permit.

Motion by Dave Foley, seconded by Jim Kowolenko, to approve the application of Christina Ziembra, request for a home occupation permit for office for home care agency, 65 Wildwood Lane. Motion carried unanimously.

7. Dominic DeMartino, Request for Release of Portion of Bond, South Side of Tri-Mountain Road

Brian Curtis prepared a report for the Commission's consideration. The driveway is not yet paved; vegetation at the site is taking nicely. Brian Curtis indicated that at his recommendation, \$12,500 of the bond could be released at the time paving is going to begin.

Motion by Brian Ameche, seconded by Ralph Chase, to approve the request for release of bonds totaling \$12,500 for Dominic DeMartino, south side of Tri-Mountain Road, at the time of recommendation of the town engineer once driveway paving is ready to commence. Motion carried unanimously.

8. Possible Zone Change, William and Dottie Smith, Grange Hall

A text amendment that would allow for retail uses, including gifts/antiques and woodworking, would be added to the use table for the series of non-residential structures on Main Street, if approved following the public hearing.

Duncan Milne, chairman of the Historic District Commission, addressed the Commission. As a Main Street resident, he asked if information regarding the actual buildings being considered for this zone change would be distributed in advance of the hearing. The maps will be filed with the application at Town Hall. Hopefully, news will also appear in the *Town Times*.

Trish Dynia also asked that information, including the list of affected properties, be available before next Thursday's meeting of the Historic District Commission.

Geoffrey Colegrove itemized the properties:

- Durham Dari-Serv
- Former Durham Funeral Home (LaRouche property/former daycare)
- Fire House
- Grange Hall
- Post Office
- Durham Manufacturing
- Strong School
- Pythian Building
- Adams property
- Notre Dame Church
- Durham Market

- First Church of Christ
- Harvey House
- Parish
- Church of the Epiphany
- Durham Library
- Town Hall

The regulation would apply to non-residential structures on Main Street. Only about one-third has private ownership and would be eligible to apply. The current provisions allow for professional offices, excluding medical and dental facilities. The idea was to permit low-traffic/low-impact professional uses.

Clay Howe addressed the Commission and described the proposed change as very significant. He hopes that there will be adequate notice to the public (a public hearing sign is not required).

Geoffrey Colegrove will make up a list of the properties as well as plot them on a map.

9. Nicholas Laudano, Request for a Special Permit for an Earth Excavation and Removal Permit to Create a Pond, 179 Parmelee Hill Road, Public Hearing Scheduled for April 18<sup>th</sup>.

The public hearing will be held on April 18<sup>th</sup>.

10. Stone Bridge Crossing, LLC, Request for a Special Permit for Active Adult Housing, Johnson Lane, Public Hearing Scheduled for April 18<sup>th</sup>

A site walk will be held on Saturday, April 7<sup>th</sup>, at 9 a.m.

The public hearing will be held on April 18<sup>th</sup>.

11. Stone Bridge Crossing, LLC, Request for a 90-day Extension of Filing of Mylars

Motion by Dave Foley, seconded by Ralph Chase, to approve a 90-day extension request for the filing of mylars for Stone Bridge Crossing, LLC. Motion carried unanimously.

12. Payment of Bill

Motion by Dave Foley, seconded by Jim Kowolenko, to approve payment of the following bill:

- Jan Melnik, Absolute Advantage — \$484.81 (minutes of March 7, 2007)

Motion carried unanimously.

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13. Approval of Meeting Minutes

Approval of the March 7, 2007, meeting minutes was tabled.

14. Miscellaneous

Geoffrey Colegrove will be meeting with the Board of Selectmen regarding fire protection tanks. Brian Ameche asked if there were any standards for fire protection. Connecticut's code does not provide for fire suppression standards for residential properties (unlike the West Coast). Based on the outcome of this meeting, there will be a town meeting regarding fire protection with a possible town ordinance proposed.

Motion by Mike Geremia, seconded by Ralph Chase, to adjourn the meeting at 8:45 p.m.  
Motion carried unanimously.

Respectfully submitted,

Jan Melnik

3/27/2007