

TOWN OF DURHAM

Planning and Zoning Commission

P.O. Box 428

Durham, Connecticut 06422-0428

MINUTES OF MAY 18, 2005, MEETING

Present

Members: Brian Ameche, Al Bradanini, George Eames, Richard Eriksen,
Dave Foley, Jan Melnik, Dian O'Neal, Jackie Snow

Town Planner: Geoffrey Colegrove

Alternate: Ralph Chase

Absent

Member: Jim Kowolenko

Alternates: Frank DeFelice, Gene Riotte

The meeting was called to order by George Eames, Chairman, at 7:30 p.m.
Ralph Chase was seated on the Commission in Brian Ameche's place.

1. Approval of Agenda

Motion by Jan Melnik, seconded by Jackie Snow, to approve the agenda of the May 18, 2005, meeting as presented. Motion carried unanimously.

2. Public Session

No business.

3. Greenland Realty, LLC, Request for a Special Permit to Remove 2,000 cubic yards of traprock to allow for the construction of a berm, 10 Mountain Road

Attorney Joan Molloy addressed the Commission, providing a status update of the Greenland site. Over the past two weeks, trucks and trailers have been removed from the property. Installation of the berm has commenced extending from the driveway entrance to the end of the building. Trees have been ordered for the berm and are expected to arrive for planting at the beginning of next week. A professional engineer has been hired to assure compliance with the site plan “as much as he can,” she stated. Eventually, a modification to the site plan will be pursued.

George Eames and Richard Eriksen advised that they had visited the site earlier in the day and, while most trucks were gone, there were three flatbed trucks up front, a dumpster, and a backhoe on the site. Because the copy of the site plan was difficult to read, there is a question as to whether the berm has been constructed entirely on Greenland property—or if it is partially on town property. This needs to be clarified. Attorney Molloy indicated that she would have the engineer certify the location of the berm and provide this information in a letter. George Eames also noted that the town engineer, Brian Curtis, would be asked to inspect the property and compare it to the site plan.

Brian Ameche was seated on the Commission at 7:37 p.m.; Ralph Chase was unseated and reseated for Jim Kowolenko.

Attorney Molloy stated that she has advised Fred Melillo not to make the changes to the site plan until there is substantial compliance with the already approved site plan; then modified site plan approval will be sought.

George Eames stated that it would be important to verify the location of the berm *before* trees are planted. Geoffrey Colegrove stated that he had visited the site earlier in the day and verified that the berm is on Greenlands’ property. The berm has been completed to approximately 80% of its total length. The traprock pile still needs to be moved and additional top soil must be added to the top and side slope of the berm. Discussion ensued about the engineer for the site determining if the area where a concrete wall had been proposed for installation is stable enough (based upon amount of rock present) to *not* have the concrete wall installed.

Richard Eriksen stated that during a review by the Inland Wetlands Commission, it was noted that the drainage for the site has not been completed; a pipe needs to divert water across the road. Attorney Molloy will determine status. The Inland Wetlands Commission has also asked for the status of the detention pond; Attorney Molloy indicated the new engineer for the site will ensure that it is properly installed.

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Discussion then segued to the fuel tanks on the site; these were not approved by the Planning and Zoning Commission; it was specifically represented during the hearings that there would not be on-site fueling. Attorney Molloy noted that the tanks are double-walled and approved by the Department of Environmental Protection, while agreeing that these were not on the site plan. They will be removed, but the fuel inside must be removed first.

In addition, the Commission discussed the prevalence of a very large pile of dirt/soil; this was not addressed on the originally approved site plan—no area for temporary storage. Some will be used for closure of the site and for the slopes. Attorney Molloy stated that it was an oversight not to have shown these on the plans.

A site walk is scheduled for June 11 at 9:00 a.m. with the Inland Wetlands Commission.

Neighbors were provided with an opportunity to speak about concerns regarding the site. Cindy Turcik, Mountain Road, stated that she is pleased that clean up of the site has commenced. However, she noted that there is still a commercial truck business operating from the site seven days a week. While the activity has slowed somewhat, it is apparent the business is continuing despite the action of the Commission (expansion of cease-and-desist order) at the last meeting.

George Eames noted there is evidently a new tenant (trucking business) of the site—with a lease, despite there being no certificate of occupancy; Diana Cruise noted that she had talked with this person as well.

Attorney Molloy indicated that the focus of the past two weeks has been on the physical plant itself.

Richard Eriksen indicated that Attorney Tom Byrne should contact Attorney Molloy and advise that there is a violation of the cease-and-desist order.

Diana Cruise spoke, concurring with Cindy Turcik's representations of the ongoing trucking business activities. She stated that dirt comes onto the site and stone goes out. Geoffrey Colegrove stated that 1,000 cubic yards are allowed to be removed and that it is proper to bring material onto the site to construct the berm.

Dave Foley asked that this activity be documented by the Zoning Enforcement Officer.

William Cruise addressed the Commission; he has been in the construction business for some 50 years and he stated that the tanks out there on the site are not double-wall containers. He also noted concern with proximity to the wetlands.

Sandy Kovach stated that oil was delivered to the fuel tanks as recently as *following* the last meeting of the Planning and Zoning Commission at which the expanded cease-and-desist order was given.

Geoffrey Colegrove offered explanation about double-walled fuel tanks; Dave Foley reiterated that fuel tanks of any variety are not permitted on the site. He asked that the cease-and-desist order be enforced and that the equipment, trucks, and tanks be removed from the site.

William Corvo, speaking on behalf of the Cruises, stated objection to the plans of the applicant to return to the Commission for an approval of a modified site plan *after the work has been done*. He noted that the Department of Environmental Protection has a process for issuing permits for tanks—and that no permit was sought or issued for this property. He indicated that he will file a formal request with the DEP on this matter, point out the proximity to the wetlands, and additionally reference the clearcutting at the site. He urged the Planning and Zoning Commission to protect the Design Development District.

Diana Cruise noted that the dumpster on site appears to be used for daily garbage disposal, not for site construction/closure materials.

Motion by Richard Eriksen, seconded by Dave Foley, to enforce the cease-and-desist order already in place with Greenland Realty, invoking all enforcement necessary to ensure compliance. Motion carried unanimously.

4. Bryant Esparo, Request for a Home Occupation Permit for an Office for Construction Business, 36 Bailey Road

Bryant Esparo addressed the Commission. He moved to Durham from Cheshire in January and had planned to transfer his office permit for his construction business to his home. He acknowledged that he had operated a snow plow business from his property this winter, but stated that this would not occur in future years. His trucks will be parked at various condominium sites where he has plowing contracts. The home office will accommodate a desk, computer, and phone. People coming to his property are those working on his property; he is making a number of improvements to the site, building a barn (12-stall horse barn, plus storage for two vintage cars), landscaping, etc. It is not a base of operations for his business. He stated he is actively seeking a garage location—he doesn't want to create problems for neighbors. He did state that where the trucks were parked is more than 500 feet from any neighbors.

Registered letters were sent to neighbors; copies of the return receipt requests were provided for the files.

One neighbor, Jim Piotronski, 48 Bailey Road, stated that while he was pleased with some of the comments offered, he was surprised about the ongoing activity at the site. He indicated that a home occupation is to be limited to two employees—there were three employees in some trucks on occasion. A number of residents along Etzel Drive were in attendance and wished to express their concerns. It was agreed that a public hearing will

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be scheduled for the next meeting (June 1) and that a site visit would be held at 6:00 p.m. on May 31 (the latter for Commission members only).

Motion by Ralph Chase, seconded by Al Bradanini, to schedule a public hearing for Bryant Esparo, home occupation, June 1, 2005 (36 Bailey Road, construction home office). Motion carried unanimously.

5. Peter Grippo, Request for a Special Permit for Three Businesses—Grippo, Subway, Dunkin Donuts, 349 Main Street

Chris Bell, the project engineer, addressed the Commission. Two vendors will be occupying the planned building, Subway and Dunkin Donuts. The convenience store operation will be slightly reduced (remaining in the same originally approved footprint). Two chief concerns appear to be parking and septic capacity. There will be no cooking on site—simply clean-up work. William Milardo will be evaluating this.

At most, there would be six employees of the entire operation at any one time; the septic flow should be more than adequate to support this level of activity.

Information will be provided by the two vendors regarding floor layouts and numbers.

In terms of parking, 15 spaces are required and 19 will be provided. The Commission noted concern with the possible need for more parking. Hours of operation were described as well as planned peak hours.

Geoffrey Colegrove asked that information be provided concerning customer traffic (both commercial vendors should have such information available). He also recommended that District #1 representative/Department of Transportation (Dan Pompeii) be notified of the increased traffic/usage for the site.

Signage for the site is limited to 30 square feet for multiple businesses.

Dave Foley described a similar multi-use site in Plainville and indicated the parking situation is “horrendous.”

Brian Ameche stated that more comprehensive traffic information is needed for the site. Geoffrey Colegrove noted that Brian Curtis, town engineer, does have traffic information available.

Dave Foley urged the applicants to consider expanding the parking for the site, allowing for spillover/employee parking, perhaps at the back of the building. The applicant was also advised to consider relocating the propane business to allow for more parking.

A public hearing will be held on June 1, 2005, at 8:00 p.m. for this application. At this point, parking considerations are the primary concern.

6. Payment of Bills

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

- Absolute Advantage, J. Melnik — \$532.14 (5/4/05 minutes)
- Attorney Thomas Byrne – \$2,425.00 (Greenland Realty)
- Midstate Regional Planning Agency – \$154.80 (copies of regulations)
- *Middletown Press* – \$134.27 (public notices)

Motion carried 8-1, with all in favor with the exception of Jan Melnik (in abstention).

7. Approval of Minutes

Motion by Ralph Chase, seconded by Al Bradanini, to approve the minutes of the May 4, 2005, meeting as submitted. Motion carried, 7-2, with all in favor with the exception of Jan Melnik and Al Bradanini (in abstention).

8. Town Planner's Report

Geoffrey Colegrove indicated that a reduction in bond is being sought for the Bertin Heights subdivision. However, there are a number of outstanding matters, not the least of which is the road location (it was supposed to be angled to prevent lights flashing into homes across the street on Carriage Drive). Dave Foley asked that it be determined if the road is in compliance. Geoffrey Colegrove will discuss the site plan/field work with Brian Curtis.

The Commission discussed at length the need for avoiding any conditional approvals. Brian Ameche urged a change in practice whereby applicants are informed that everything must be reflected on plans and be advised that the Commission will not grant conditional approvals.

The Commission tabled the bond reduction request.

9. Miscellaneous

The Commission asked the status of the Durham Village sign; there is a June 1 deadline for posting the common sign.

In terms of the accounting for bonds being held by the town, Geoffrey Colegrove reiterated that a hard drive failure has prevented access to records and the information appears irretrievable. Hence, there is apparently no accounting of the approximately \$80,000 being held in bonds.

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The Guilford subdivision planned for the south end of town (off Route 77/Crooked Hill Road) is proceeding. A letter was sent from Brian Curtis asking that Guilford consider alternate access. To Al Bradanini's question as to whether or not the town of Guilford would have to come before the Durham Planning and Zoning Commission to widen the road, the response was that it is an already approved town road (therefore, under jurisdiction of the Board of Selectmen and Department of Public Works).

Motion by Dave Foley, seconded by Ralph Chase, to adjourn the meeting at 9:35 p.m.
Motion carried unanimously.

Respectfully submitted,

Jan Melnik

5/25/2005