

TOWN OF DURHAM

Planning and Zoning Commission

P.O. Box 428

Durham, Connecticut 06422-0428

MINUTES OF OCTOBER 4, 2006, MEETING

Present

Members: Ralph Chase, George Eames, Richard Eriksen, Dave Foley,
Jim Kowolenko, Gene Riotte, Tom Russell

Town Planner: Geoffrey Colegrove

Alternate: Frank DeFelice

Absent

Members: Jan Melnik, Dian O'Neal

Alternates: Brian Ameche, Jackie Snow

The meeting was called to order by George Eames, Chairman, at 7:30 p.m.
Frank DeFelice was seated on the Commission in Jan Melnik's place.

1. Approval of Agenda

Motion by Dave Foley, seconded by Jim Kowolenko, to approve the agenda of the October 4, 2006, meeting as amended to reflect inclusion of an 8-24 review of Old Yankee Way as item 7A. Motion carried unanimously.

2. Public Session

Dave Dingwell addressed the Commission about item 8 on the agenda (Distinctive Building, LLC, modification to the site plan, 45R Ozick Drive). He asked if there would be an automatic public hearing. George Eames indicated that this was discussed at the Saturday site walk. Rory Wilson has committed to making changes and bringing a modified site plan before the Commission. This will include specific conditions that the

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Commission will be seeking. George Eames stated that the plan has not yet been presented to the Commission. When it is, the Commission will discuss it.

Tony Cuomo addressed the Commission regarding the Summit Drive subdivision on the south side of Parmelee Hill Road. He recently completed the last subdivision home and is making the final improvements to the road. Several neighbors have complained about accidents taking place in the area of the stone walls. They asked that a portion of the wall be removed and the road widened, which he accomplished. However, approval of the Commission was inadvertently not sought.

George Eames stepped down as Chairman at this point (he has a relative who resides in the area); Richard Eriksen assumed the Chair.

Chris Depentima, 40R Summit Drive, addressed the Commission, reiterating the comments of Tony Cuomo.

Geoffrey Colegrove stated that this was a designer subdivision with a common driveway that includes easements over the lots. The width formerly between the walls was about 11 feet.

Richard Eriksen stated this would be a site plan review. This evening's meeting is not a public hearing. Instead, an application for a site plan review would need to be made. Based upon public interest, a public hearing could be scheduled.

Tony Cuomo explained that there was some matter of urgency. Asphalt has been removed from the road to accomplish the change that was made; if a storm were to occur, it could result in a serious drainage problem given the extent of the slope. Richard Eriksen suggested that, as a contractor, erosion control measures could be taken. However, the site plan review needs to be followed.

Geoffrey Colegrove stated that the integrity of the road is maintained with the widening of the road to 14 feet throughout (expanding from 11 feet).

Alan Eames stated that it had been previously agreed that 25 feet of his wall could be removed to allow for a pullout, about 175 feet of wall was removed (property damage totaling at least \$20,000). This, of course, is a civil issue. His point was that the Commission made an exception a year and a half ago to allow 25 feet to be removed for a pullout along the driveway. He is willing to meet with the neighbors and Tony Cuomo and reach a compromise. He is willing to have the road moved to cross a "dilapidated pond." It would not be necessary to involve the town.

Richard Eriksen suggested that any agreement reached among the neighbors and Tony Cuomo should be presented to Geoffrey Colegrove for consideration of the Commission. Geoffrey Colegrove suggested that the neighbors attempt to negotiate together this

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evening. If an agreement is reached, it can be presented to the Commission later in the agenda.

Dave Foley stated that he would only be comfortable reviewing the agreement reached among the neighbors if there is a formal site plan review by the Commission at some point.

George Eames resumed the Chair.

3. Sona Sliker, Request for a Home Occupation for Administrative Support Services, 17 Hickory Hill Road

Geoffrey Colegrove stated the application shows the activity in a small portion of a bonus room area. Letters from abutters have been submitted noting awareness of the business. No traffic will be generated; all business will be virtual. No signage is planned. Sona Sliker is the only employee. The business will provide outsourcing for secretarial and administrative services.

Motion by Ralph Chase, seconded by Jim Kowolenko, to approve the request of Sona Sliker for a home occupation permit for an administrative support services, 17 Hickory Hill Road. Motion carried unanimously.

4. 8-24 Review for Old Yankee Way

Brian Curtis prepared a punch list for this project more than a year ago; however, work was not completed prior to the winter. He has recently conducted an inspection and revised the punchlist. The maintenance bond has been posted.

The 8-24 review has to occur before the Board of Selectmen review and accept the road. The Commission does not accept the road (only the Board of Selectmen can). Geoffrey Colegrove will contact Brian Curtis to ensure that he is ready to give certification for the road. This is primarily to assure that construction of this new soft-shoulder roadway was properly completed.

Motion by Richard Eriksen, seconded by Dave Foley, to vote favorably on the 8-24 review for Old Yankee Way, conditioned on acceptable review of the shoulder by Jacobsen and that the four conditions in the Jacobsen review are met. Motion carried unanimously.

Motion by Ralph Chase, seconded by Dave Foley, to recess the regular meeting for the public hearing at 8:00 p.m. Motion carried unanimously.

PUBLIC HEARING

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1. Applicant/Owner: Ellen Sibilis/Dolphin Days Learning Center
Location: Ozick Drive, Lot #7, Tax Assessor's Map #44,
Parcel #1-7
Application: Request for a proposed special permit to construct a 10,000
square foot building for a day care facility with related
parking

Members: Ralph Chase, George Eames, Richard Eriksen, Dave Foley,
Jim Kowolenko, Gene Riotte, Tom Russell

Town Planner: Geoffrey Colegrove

Alternate: Frank DeFelice

Chairman George Eames read the call for the Public Hearing from the Legal Notice. Attendance was taken and all members present were seated on the Commission. Frank DeFelice was seated on the Commission in Jan Melnik's place.

Frank Magnotta, consulting engineer from Portland, addressed the Commission on behalf of the applicant. A building 10,000 square feet in size is proposed. The parcel is about 5.4 acres. Frontage is along Ozick Drive, Route #68, and Mountain Road. The bulk of the application and activities are being proposed on the eastern portion of the property. Frank Magnotta then reviewed drainage and structures in the area. The proposed activities are not in the wetlands areas. The Inland Wetlands Commission has granted approval of the application. One area of parking is proposed for intermittent use (several times a year when all parents attend an event); it will be gravel-surfaced.

A potential future septic system is flagged on the plans. Several Commission members asked that this comment (regarding possible future septic system) be removed from the plans.

The school will accommodate 120 students and about 18 staff and teachers. There are currently 92 students (capacity) and 13 staff at the present day care center. Parking at the current operation expanded from the original 12 to 24 spaces presently. The new plan calls for 48 parking spaces, not counting the reserved area. Brian Curtis has requested that several parking spaces be removed, bringing the number down to about 40 spaces for the new operation.

Frank DeFelice noted that the Public Safety Commission has pictures of Ozick Drive during graduation at the current facility when the road was blocked totally, not allowing the passage of any fire trucks.

Because of the number of students in the facility, application has been made to the Department of Public Utility Control and the State Health Department for a small water system for the operation. The application is currently pending.

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Frank Magnotta stated that sign design would be developed at the time the building is designed. The sign would be on the property itself and serve only this business.

Frank Magnotta discussed the town engineer's comments regarding the buffer requirement along Mountain Road. Typically a 50-foot buffer is provided in areas that are adjacent to residential areas. If this is acceptable to the Commission, he will note this accordingly on the plans.

The only lighting on the site will be around the building (shielded downlights) and several freestanding lights in the paved parking area (shorter poles with directional box units). There will also be lighting along the walkway and bridge (walkway bollard lighting and downward directed). Richard Eriksen stated that actual fixture detail must be provided to the Commission. Also, a lighting plan showing the actual lighting output is required. A planting plan also needs to be developed and presented to the Commission.

The applicant is still weighing whether or not to construct the bridge walkway; if not constructed, this would mean the auxiliary parking would not be developed. Therefore, the Commission noted that it would be difficult to assess the application without knowing whether or not the auxiliary parking is a part of the plan. Frank Magnotta stated that the regulations require a certain number of parking spaces; the proposed application (even if it drops to 40 spaces) more than meets the requirements of the application. It is not possible to design for every conceivable use that parking could necessitate (i.e., the high school has activities where tremendous spillover of cars occurs; the actual number of parking spaces used for special events exceeds what is required by the regulations).

Richard Eriksen stated that the plan before the Commission must be the one that is going to be built—therefore, the auxiliary parking should not be on the map if it is not going to be built. Frank Magnotta stated that the applicant is still weighing whether or not to build that area.

Frank Magnotta asked a question about the performance bond, which he thought was confined to public improvements and not for individual or private lot improvements. This, of course, is separate from driveway and erosion and sedimentation control bond requirements. Geoffrey Colegrove clarified that this would be to bond for things required by the Commission (relative to buffering, plantings, etc.). Bonding would not be required at the start of construction for these things; rather, it would be for anything not completed at the time of issuance of the certificate of occupancy.

To Richard Eriksen's query, Frank Magnotta stated that the plans show a specific planting plan. Dave Foley noted that the comment about "existing vegetation" is moot as there is effectively no real vegetation on the site. Also, Dave Foley asked that a sequence of construction be provided. The Commission will want to see the buffer on Mountain Road constructed first.

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Frank Magnotta asked for clarification of the Commission's desires regarding the buffer width. Dave Foley stated that the Commission can require as large as a 100-foot buffer. At this point, it would be too early to make a recommendation. The plan has to be revised to reflect the planting plan and whether or not there will be an auxiliary parking area.

Dave Foley stated that the site could be really beautiful. However, he'd like to see plantings along the brook. He'd also like to see an improved architectural treatment of the short wall of the building facing Route 68 as opposed to the side of an industrial metal Butler building.

Gene Riotte asked for clarification of the play area at the back of the site. There is a five-foot chainlink fence surrounding the area. The chainlink will be coated (black).

Geoffrey Colegrove asked the timetable for plan revision. Frank Magnotta stated that this should be by the beginning of the following week. Copies also need to be prepared for the Commission (11x17) of the revised plans, following input from the town engineer and town sanitarian.

Attorney Joseph Milardo of Middletown addressed the Commission on behalf of Cynthia Turcik and William and Diana Cruise, all residents of Mountain Road. He asked that the applicant reconsider use of the westerly part of the property and access to Mountain Road. He suggested that putting egress/access from Mountain Road is not wise given the assertion that Mountain Road is not a town road; there has not yet been resolution from town counsel on this matter. In terms of buffering, what is proposed with a few trees on a small buffer is inadequate. He stated that the entire project is a problem from the standpoint of traffic. With 120 students, 50% of families are statistically split. If there is a 50% participation (60 students), there would be at least 90 vehicles attending an event, not counting grandparents. There could be a potential of at least 118 or as many as 190+ cars for an event. Even for an hour, this would be hectic. The auxiliary parking area with 18 or 20 spaces will likely house staff. But there is not adequate parking in the primary area; the term intermittent probably won't address what the use will actually be.

Attorney Milardo asked that the Commission consider carefully this application and the use of Mountain Road, which is likely not to be just intermittent. He also stated that the state is likely to approve a curb cut, even with a steeper slope, for an intermittent use.

Cindy Turcik addressed the Commission. Her property is directly across from the property being developed. She asked that her driveway be shown on the map.

Eileen Buckeye, 116 Sumner Woods Road, addressed the Commission. She spoke in favor of the application. Her two children attend the program. One of the reasons she moved to Durham was for the school system. A disadvantage is that there are few options for daycare centers. Dolphin Days is an excellent program that she endorses. She praised the professionalism of Ellen Sabilia, the center's owner.

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Fran Kelley addressed the Commission. She has two children, both of whom have attended/still attend Dolphin Days. She also praised the facility and the program. The proposed plan is designed to address the parking problems that have existed in the past. Any time there was a parking problem, Ellen Sibilina addressed it promptly. She also limited events to only some classrooms, not full-school. The two events driving the greatest traffic are graduation and Christmas. But this does not affect the entire school population (i.e., babies and toddlers not involved).

Bill Vogler addressed the Commission. His stepson attends Dolphin Days. He spoke in favor of the application. He stated his impression that a Butler building surrounded by grass would be a big improvement over the site in its current, clear-cut condition.

An unidentified woman from Oak Terrace spoke about the project. Her son attends Dolphin Days, as will her soon-to-be-baby. She endorsed the application.

Dave Dingwell, Mountain Road, addressed the Commission. He stated that while he hears the comments about "what a good owner Ellen Sibilina is," if she sells the business, the next owner might not be as gracious as she is.

Frank Magnotta stated that the issue of a future owner cannot be effectively responded to. This is a special permit approved for a specific use with conditions attached; a future owner would be required to comply with the same requirements.

Dave Foley asked that the plans be reviewed to ensure they comply with all requirements. For instance, the regulations require that adjacent property owners be identified on the site plan. Frank Magnotta stated that some are identified. A list was submitted along with the locations; however, these were not all placed on the site plan.

Regarding Mountain Road maintenance, Geoffrey Colegrove stated that the town did install culverts and performed some grading of the road; Greenland Realty paved the road as part of an original agreement. Frank Magnotta stated that the town has invested in the road over the years.

Legally, Frank Magnotta stated that all owners of property on Mountain Road have the right of use and access from that road; this includes Ellen Sibilina. Frank Magnotta stated that the town acquired property from Ellen Sibilina to construct the culvert; the town also acquired property to widen Mountain Road. He stated that it is a public road. There is also a section of state taking line and state right-of-way. In terms of locating a curb cut onto a state highway, Frank Magnotta said the state will first look at access and frontage; because there is a town road, they would not approve another curb cut on that dangerous section of a state highway.

To the question of visibility from Cindy Turcik's site, Frank Magnotta stated she would be looking down on the site from her elevated location. She might be able to see down onto the trees and possibly part of the parking area. Geoffrey Colegrove asked him to

take a careful look at the topographic features and reflect the requirements on the site. Some vegetation should be preserved.

Geoffrey Colegrove asked if Frank Magnotta would be able to get sign-off of the to-be-revised plans from Bill Milardo and Brian Curtis within the next two weeks. He anticipates this being the case.

Motion by Ralph Chase, seconded by Dave Foley, to continue the public hearing on the request for a special permit to construct a day care facility and related parking at 21 Ozick Drive. Applicant/Owner: Ellen Sibilia, Dolphin Days Learning Center. Motion carried unanimously.

PUBLIC HEARING

2. Applicant: Planning and Zoning Commission
Application: 1. Proposed amendment to Section 05.01. "Permitted Uses in Residential Districts," Subsection 5.01.01.01.(30) to allow, by special permit, the following:
- "Shared or common driveways serving three (3) or more lots having frontage on (1) a state highway; (2) roads maintained by the Town of Durham; (3) roads which are to be built as part of a subdivision; (4) lots having legal frontage on a private road or driveway under the provisions of Section 06 (Designer Subdivisions) of the Durham Subdivision Regulations; or (5) private roads in the Light Industrial Zone."
2. Proposal to require bonding of driveways and to include construction specifications for common driveways

Members: Ralph Chase, George Eames, Richard Eriksen, Dave Foley,
Jim Kowolenko, Gene Riotte, Tom Russell
Town Planner: Geoffrey Colegrove
Alternate: Frank DeFelice

Chairman George Eames read the call for the Public Hearing from the Legal Notice. Attendance was taken and all members present were seated on the Commission. Frank DeFelice was seated on the Commission in Jan Melnik's place.

Geoffrey Colegrove stated that the application was sent for review by the Southcentral Regional Council of Governments to surrounding planning agencies. The Connecticut River Estuary (abutter to the south) reviewed the application and noted that staff

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reviewed the proposed application and found no significant impacts on the ecosystem and habitat of Long Island Sound. Midstate Regional Planning Agency also reviewed the application favorably; it is not in conflict with abutting municipalities.

The genesis of the application is recent experience by the Commission. Attorney Thomas Byrne suggested that a surety bond requirement be included in the special permit section. Geoffrey Colegrove also developed standards of performance using data from other communities. This makes an effort to describe specific lengths of driveway and widths. Road base is also discussed in the language. Jim Kowolenko suggested that “percent” should be added to the language (exceeding 10% slope).

Dave Foley queried whether or not the fire department has reviewed this application. Placement of four houses along a 13-foot road located 800 feet off a town road might present a problem. Geoffrey Colegrove stated that this is the standard being used in applications received. Richard Eriksen suggested adding “conditions may require a wider road” or other factors as necessary. Dave Foley indicated that this could tie the Commission’s hands. Geoffrey Colegrove noted that this proposal would make it by special permit as well as attempts to establish standards; currently, this is not the case (no standards and no special permit required).

Geoffrey Colegrove suggested adding, “These are minimum standards and the Commission may, under specific site circumstances, consider alternative designs.”

Frank DeFelice asked why this is even a necessary change. Richard Eriksen stated that the Commission is trying to avoid 22-foot or 28-foot roads and driveways all over town (poor use of land in a rural area).

Jim Kowolenko and Frank DeFelice stated that the fire department should be solicited for input on this matter. Geoffrey Colegrove will forward the proposal to David Herr with the volunteer fire department, along with a copy to chief Harry Hall.

Geoffrey Colegrove stated that Brian Ameche had previously recommended this language be included for private roads in light industrial zones. However, this would not be in this section (residential only). That needs to be removed.

Motion by Richard Eriksen, seconded by Ralph Chase, to close the public hearing on the zoning text amendment to Section 05. “Common or Shared Driveways” and require bonding of driveways and to include construction specifications for common driveways of the Durham Zoning Regulations. Motion carried unanimously.

Motion by Dave Foley, seconded by Ralph Chase, to reconvene the regular meeting at 9:31 p.m. Motion carried unanimously.

5. Payment of Bills

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Motion by Ralph Chase, seconded by Dave Foley, to approve payment of the following bill:

- Attorney Tom Byrne — \$3,025.00 (Hannah Enterprises)

Motion carried unanimously.

6. Approval of Minutes

Approval of the minutes of September 20, 2006, was tabled.

7. Town Planner's Report

The Commission resumed discussion of the Summit Drive subdivision driveway and wall. Geoffrey Colegrove reported that during the caucus held earlier in the evening, a resolution was reached. The wall will be restored as it previously existed on the originally approved plan. There were no changes to the plan approved in 2002; there were no revisions or changes, as previously represented.

Geoffrey Colegrove stated that he recently visited Old Blue Hill Road with the first selectman, Jim McLaughlin; they traveled as far as Chris Benzi's property. Letters were received from several abutters about the road.

8. Miscellaneous

Gene Riotte advised that there is a day care sign posted on Maple Avenue, just south of Bihlmeyers. Geoffrey Colegrove advised that the facility has been there for many years. The sign is quite large and will be looked into.

Motion by Gene Riotte, seconded by Dave Foley, to adjourn the meeting at 9:43 p.m.

Motion carried unanimously.

Respectfully submitted,

Jan Melnik

10/12/2006