

TOWN OF DURHAM

Planning and Zoning Commission
P.O. Box 428
Durham, Connecticut 06422-0428

MINUTES OF SEPTEMBER 21, 2005, MEETING

Present

Members: Al Bradanini, George Eames, Richard Eriksen, Jim Kowolenko, Jan Melnik,
Jackie Snow
Town Planner: Geoffrey Colegrove
Alternate: Ralph Chase

Absent

Members: Brian Ameche, Dave Foley, Dian O'Neal
Alternates: Gene Riotte, Frank DeFelice

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 Ralph Chase, seconded by Al Bradanini, to amend the agenda of the September 21, 2005, meeting to reflect discussion of lights (Little League), 9a; tabling of Arrigoni Enterprises, LLC, request for a special permit to construct three buildings, Old Mountain Road, item 8; and tabling of Peter Grippo, Grippo's Mobil Service Center, Signs for Subway, Dunkin Donuts, and Mobil Station, 349 Main Street (item 19). Motion carried unanimously.

2. Public Session

No business.

3. Tilcon, Inc., Request for a Special Permit for Renewal of Earth Excavation and Removal Permit

Frank Lane, Director of Real Estate, addressed the Commission regarding annual renewal of the company's permit.

He stated that activities had continued according to plan with mining occurring within the perimeter of the existing quarry in an orderly progression of work on the faces of the mountain. In the northeast corner of the property, there are two stormwater detention basins that have been enlarged somewhat. This is to help control discharge (monitoring reports indicated that goals were not being met relative to fine particulates). The basins were enlarged under the guidance of the Department of Environmental Protection and that agency has approved the completed work.

To Richard Eriksen's query, Frank Lane stated that 1,100,000 tons of material (about the same as this year) are proposed for removal.

Motion by Richard Eriksen, seconded by Jan Melnik, to approve the one-year site plan and permit renewal review of Tilcon Inc., Route 68. Motion carried unanimously.

4. Glen Yates, Request for a Special Permit for an Accessory Apartment, 171R Harvey Road

As the applicant was not in attendance, this item was deferred until later in the agenda.

5. Little League Lights, Allyn Brook-District #13 Complex

As the applicant was not in attendance, this item was tabled to a future meeting.

6. Beatrice, Rita, and Cathy Valley, Request for One Building Lot and One Other Lot, Old Blue Hills Road

The applicants addressed the Commission. There is no activity proposed in a wetlands and the Inlands Wetlands Commission indicated that no permit is required. They also presented their application to the Conservation Commission (no comment).

Geoffrey Colegrove advised that the well arc is not fitting entirely on their property; their site plans will need to be revised in order to fully accommodate the well arc on their property.

Motion by Richard Eriksen, seconded by Ralph Chase, to approve the request for one building lot and one other lot, Old Blue Hills Road, application of Beatrice, Rita, and Cathy Valley, subject to the requirement that the well arc be 100% located on the lot itself. Motion carried unanimously.

7. Jay Cusak, Request for a Proposed Two-lot Resubdivision, Pisgah Road

A site walk is scheduled for Saturday, October 1, at 9:00 a.m. (joint with the Inland Wetlands Commission).

Several neighbors (Bralio Santiago and Brian Hunter) expressed concern regarding the subdivision. They were advised that the public hearing will commence on October 5 on this application and that all comment should be reserved until then to be part of the formal record.

John Adams, the project engineer, addressed the Commission. He briefly reviewed the proposed plans. There will be a partially shared driveway serving the lots. The parcel is a challenging one and it will be critical to use erosion control measures during construction, including substantial

amounts of silt fencing. A drainage swale will be created on the inside of the driveway with check dams every 50 feet. Erosion control blankets will also be used.

The total parcel is 5.88 acres in size with one lot proposed at 2.8 acres and the other at 3.07 acres. To a query regarding total proposed disturbance of the site, the response was approximately 1.5 acres.

Because about 5,000 cubic yards of material is proposed as excess (for removal) and this is 4,000 cubic yards over the limit, a special permit to run in tandem with the application will be required. The hearing for earth excavation/removal will need to be held at the second meeting in October. The first meeting of October will be used to open the public hearing on the resubdivision.

Bill Milardo, town sanitarian, and Brian Curtis, town engineer, are currently reviewing the plans. It was acknowledged that the topography of the site will be difficult.

8. Philip Augur, Request for a Home Occupation Permit to Manage Condominium Rentals,
17R Tri-Mountain Road

Philip Augur addressed the Commission. He contacted the one other adjacent neighbor (besides himself; he owns several adjacent parcels); that is Tilcon, Inc. A letter was provided from Frank Lane stating no concerns with the application.

About 5% of his home (2,085 square feet total) will be used for the home office. There will be no signage. Internet access and telephones will be used for the business with no traffic.

Motion by Richard Eriksen, seconded by Ralph Chase, to approve the home occupation request of Philip Augur, request for a permit to manage condominium rentals, 17R Tri-Mountain Road.
Motion carried unanimously.

Motion by Al Bradanini, seconded by Ralph Chase, to recess the regular meeting at 8:00 p.m. for the public hearings.

PUBLIC HEARING

1. Applicant/Owner: J&T Route 68 Property Management, LLC
Location: Lot #9, 39 Ozick Drive
Application: Request for a Special Permit to construct a 9,600 square foot building to include professional services, offices, plumbing, heating and electrical establishments, warehouse, etc.

Members: Al Bradanini, George Eames, Richard Eriksen, Jim Kowolenko, Jan Melnik,
Jackie Snow

Town Planner: Geoffrey Colegrove

Alternate: Ralph Chase

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. Ralph Chase was seated on the Commission in Brian Ameche's place.

Frank Magnotta addressed the Commission on the applicant's behalf and described the proposed activities. Two buildings are planned, a 9,000 square-foot rental warehouse structure and a 15,000 square-foot manufacturing building. A common access driveway already in place will access these buildings. Wetlands are denoted on the plans covering about half of the entire parcel.

Parking is depicted on the site plan in accordance with the regulations for manufacturing and storage unit purposes. The storage building has a mix of larger units equipped with their own lavatories and septic system (6 total), 14 small-to-midsize units, and 8 very small units (for a total of 28).

The Inland Wetlands Commission has granted a permit for the site. There are two septic systems serving the site (one for each building). The on-site drainage system features an oil particle separator just before the connection with the Ozick Drive drainage system. Erosion control measures have been added to the site plans as well as plantings and berms.

Geoffrey Colegrove asked the plans for the specific uses of the manufacturing building. Frank Magnotta indicated that while not definitive, he would ask Jack Ozick, the owner, to describe his plans, which include overflow from the existing operation across the street. Frank Magnotta added that the limitations of manufacturing use would be those allowed in this zone (Design Development District).

Jack Ozick explained that he cannot specifically state at what point his business needs will require spilling over to this site. However, the uses would fit the Design Development District.

Because this is a special permit being sought, the Commission can require the applicant to submit a use permit for review at the time of occupancy.

Frank Magnotta presented a cross-section of the buildings with regard to proximity and visibility to the homes on Mountain Road. Because of the dropoff and the significant canopy in the area, there is no visibility to these buildings from the houses on Mountain Road nearest the site once the property is developed.

Richard Eriksen asked for details regarding lighting. The plans depict downlighting restricted to 100 watts with full cut-off wall packs used only over the doors. No freestanding lighting is proposed on the site. Frank Magnotta stated that lighting will be on all night long.

Fred Serle, 608 Wallingford Road, addressed the Commission. He asked, if approved, how much traffic would be generated and what the hours of operation could be. Frank Magnotta indicated that the hours of operation are open to the "full use of the site." He would anticipate that half the units in the storage building would be occupied and operational during traditional business hours. As for the other storage units, these could be accessed at any time of day/night. There are no restrictions regarding hours, nor will there be a gate to the property. However, restrictions regarding what can be placed in storage units will be reflected on the site plans.

Fred Serle stated that once the leaves are off the deciduous trees, light will be visible—as it is from the storage facilities across the street from his home on Route 68. There is also a problem with spillover of light from the Murphy Pool site. Frank Magnotta explained that there is a large vegetative buffer on this site, unlike the situation across the street.

To another query, Frank Magnotta explained that a single loading dock is proposed for the manufacturing facilities. Most likely the use would be for either tractor-trailer pickups and deliveries (not a substantial part of Ozick's current operation), with UPS-style trucks being more the norm.

Geoffrey Colegrove asked the breakdown of employees and determination regarding water supply. As it stands currently, the manufacturing building cannot exceed 25 people.

William Cruise, Mountain Road, asked what could be manufactured in the proposed building. Frank Magnotta stated that anything proposed must conform to the requirements of the Design Development District.

Richard Eriksen stated that, as a special permit, there can be conditions.

Motion by Jan Melnik, seconded by Al Bradanini, to close the public hearing of J&T Route 68 Property Management, LLC, Request for a special permit to construct a 15,000 square-foot manufacturing building and a 9,000 square-foot building for rental storage units, Lot #9, 39 Ozick Drive. Motion carried unanimously.

PUBLIC HEARING

2. Applicant/Owner: Derek and Gail Harris
Location: 650 Wallingford Road
Application: Request for a Home Occupation Permit for a Landscaping Business and Office

Members: Al Bradanini, George Eames, Richard Eriksen, Jim Kowolenko, Jan Melnik,
Jackie Snow

Town Planner: Geoffrey Colegrove

Alternate: Ralph Chase

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. Ralph Chase was seated on the Commission in Brian Ameche's place.

Derek Harris addressed the Commission and explained his plans to operate a landscaping business from his home. He presented certified receipts from neighbors within 150 feet of his property line; there is no objection from any of the abutters. An area about 30 square feet in size is proposed for a desk for the office portion of the business within a 1,600 square-foot home. Storage for the business is proposed in a garage behind the house. In addition, a truck/trailer will be kept in the driveway, also behind the house. No equipment will be visible from Route 68.

No employees are proposed for the business; should that ever be the case, these would be individuals who would maintain their own truck/equipment at their own homes. Employees would go directly to customer properties to perform work.

Motion by Jan Melnik, seconded by Ralph Chase, to close the public hearing of Gail and Derek Harris, 650 Wallingford Road, proposed home occupation permit, landscaping business and office. Motion carried unanimously.

As the attorney representing the two Greenland Realty public hearing applications was not yet in attendance, this portion of the public hearing agenda was tabled until later in the evening.

Motion by Ralph Chase, seconded by Jackie Snow, to move out of the public hearing for the regular meeting at 8:37 p.m. Motion carried unanimously.

9. Glen Yates, Request for a Special Permit for an Accessory Apartment, 171R Harvey Road

Glen Yates addressed the Commission regarding his plans to rent a small accessory apartment located over the garage and connecting to the main house. The apartment is about 1,070 square feet in size; the total home is 4,011 square feet in size (about 27%). To a Commission question, Glen Yates indicated that the apartment would not be rented to a relative.

Glen Yates explained that he had talked with the building inspector; the apartment over the garage has been constructed to code for inhabitation.

The total property size is about 19 acres. A public hearing will be scheduled for October 19. A sign must be posted at least 10 days in advance of the hearing.

10. Kim Fujio, Liberty Bank, Site Plan Review for Addition of Exterior Ramp and Vestibule to Rear of Building, 357 Main Street

Kim Fujio from Liberty Bank and Steve Taylor, the project manager, addressed the Commission. The bank leases this property. The site plan was presented detailing a 65 square-foot foyer being added to the back of the building (where the existing handicapped parking is). A handicapped access ramp will be added. The project does not extend beyond the building line, except for an extension of the roof.

The property owner is Jack McGuire.

Motion by Richard Eriksen, seconded by Ralph Chase, to approve the site plan review of Liberty Bank, addition of exterior ramp and vestibule to rear of building, 357 Main Street. Motion carried unanimously.

11. Arnold Battista, A&S Electrical Services, Site Plan Review for Additional Rental Space for Overhead Door Installation, 42 Ozick Drive

Scott Coriander, Connecticut Consulting Engineers, addressed the Commission on behalf of the applicant. The current building, constructed two years ago, is about 7,200 square feet in size. An addition of 1,680 feet is proposed off the end of the building. He stated that the Inland Wetlands Commission granted an approval a year ago to do grading within the regulated area to accommodate part of the driveway. The septic system installed at the time of the original construction is oversized and will accommodate the new addition; a letter from the town sanitarian, Bill Milardo, attests to this fact.

The building is occupied by Mr. Battista's own electrical company, as well as tenants (currently Housewright Development, Central Connecticut Overhead Door, and a satellite office for an electrical contracting company). Overhead Door will expand into this new space. One additional cutoff light is proposed for the back of the building as well as one more glow-top bollard.

In terms of traffic, it is minimal—perhaps one or two trucks to the site every week.

Motion by Richard Eriksen, seconded by Al Bradanini, to approve the site plan review of Arnold Battista, A&S Electrical Services, for additional rental space for the overhead door installation company, 42 Ozick Drive. Motion carried unanimously.

12. Derek and Gail Harris, Request for a Proposed Home Occupation Permit for a Landscaping Business and Office, 650 Wallingford Road

Motion by Jan Melnik, seconded by Ralph Chase, to approve the application of Derek and Gail Harris, landscaping business and office, 650 Wallingford Road. Motion carried unanimously.

13. J&T Route 68 Property Management, LLC, Request for a Special Permit to Construct a 15,000 square-foot manufacturing building and a 9,000 square-foot building for rental storage units, Lot #9, 39 Ozick Drive

Motion by Richard Eriksen, seconded by Ralph Chase, to approve the application of J&T Route 68 Property Management, LLC, request for special permit to construct a 15,000 square-foot manufacturing building and a 9,000 square-foot building for rental storage units, Lot #9, 39 Ozick Road, subject to the condition that the actual use be submitted for review by the Commission for use of the 15,000 square-foot manufacturing building. Motion carried unanimously

14. Payment of Bills

Motion by Ralph Chase, seconded by Al Bradanini, to approve payment of the following bills:

Absolute Advantage, Jan Melnik – \$525.63 (minutes of July 20, 2005)
Absolute Advantage, Jan Melnik – \$213.87 (minutes of August 3, 2005)
Absolute Advantage, Jan Melnik – \$85.69 (minutes of August 10, 2005)
Absolute Advantage, Jan Melnik – \$493.00 (transcripts of Fazley Rabbi hearings)
Absolute Advantage, Jan Melnik – \$928.00 (transcripts of Bryan Esparo hearings)
Middletown Press – \$655.42 (new charges)
Midstate Regional Planning Agency – \$5,875.49 (July expenses)
Attorney Thomas Byrne – \$2,275.00 (Esparo case)
Attorney Thomas Byrne – \$2,125.00 (Fazley Rabbi case)

Motion carried, 6-1, with all in favor with the exception of Jan Melnik (in abstention).

15. Approval of Minutes

Motion by Ralph Chase, seconded by Al Bradanini, to approve the minutes of the August 10, 2005, special meeting and the August 3, 2005, regular meeting as submitted. Motion carried, 6-1, with all in favor with the exception of Jan Melnik (in abstention).

16. Town Planner's Report

The Commission discussed sprinkler system requirements and the fact that there is apparently not a standardized code for these. This relates to a letter received from Dick McManus (concerning Cox property development).

Midstate Regional Planning Agency will be reviewing a referral from the town of North Branford concerning a senior center in that community.

The annual letter for the annual report for Planning and Zoning must be written by November 1 (this is for July 2004 through June 2005).

A letter was received from Catherine Berten-Gulch regarding partial release of a bond. Brian Curtis has recommended that \$8,400 be retained for completion of the street and signs. This matter is now in the hands of the Board of Selectmen.

Brian Curtis advised the Commission in an August 10 letter of the amount of the bond to be posted for the Mesick property, Shunpike Road. This is for the earth excavation activity being conducted at the property by T.J. Russell. The amount of the bond to be posted is \$15,900.

The annual collection of hazardous materials will occur at Lawrence School on Mile Lane in Middletown on Saturday, October 1, from 8 a.m. until 1 p.m.

There are several issues that need to be resolved regarding drainage swales and a retention pond near Henry and Ruth Bugai's property/subdivision off Powder Hill Road.

Geoffrey Colegrove advised that the records were nearly developed for two cases filed against the Planning and Zoning Commission (Fazley Rabbi and Bryan Esparo). A complaint was received that there are four unregistered vehicles on the Esparo site. Mr. Esparo will be asked the registration status of those vehicles; if there are any issues (nonregistered), the state police will be notified.

Letters regarding retail situations on Route 79 and on Meetinghouse Hill were sent.

Ed Grimes will monitor the situation of sandwich boards at Durham Village; up to two sandwich boards can be used for the entire site (ideally on a rotating basis, but this is not the Commission's concern—just that there be no more than two at a time).

Geoffrey Colegrove updated the Commission on a meeting held with the town of Guilford regarding the Northern Heights Subdivision; the hearing has been continued to this evening (and then was canceled). Maryann Boord, Geoffrey Colegrove, Renee Primus, and Ray Kalinowski all spoke at the hearing, as well as several area residents. The Commission apparently does not have a traffic analysis in the material supplied by the applicant; this is required by the regulations. One matter of continued concern is alternative access, conditions during snowstorms, and limited turning movements.

Jim Kowolenko noted that the grass areas around the billboards on Route 17 seem to be expanding (more extensive mowing). A letter has been issued by the Inland Wetlands Commission regarding this violation.

Motion by Al Bradanini, seconded by Ralph Chase, to recess the regular meeting for the public hearings at 9:22 p.m. (Greenland Realty). Motion carried unanimously.

PUBLIC HEARING

3. Applicant/Owner: Greenland Realty, LLC
Location: 10 Mountain Road
Application: Request modifications to site plan to relocate landscaping island, replace guardrails, add trees, add additional garage door to building, eliminate retaining wall, add gate to restrict access to site, add pole with light and surveillance camera, add temporary storage stock pile area, reduce on site paving, eliminate catch basin and replace with swale, relocate second catch basin, add footings drains

Members: Al Bradanini, George Eames, Richard Eriksen, Jim Kowolenko, Jan Melnik, Jackie Snow

Town Planner: Geoffrey Colegrove

Alternate: Ralph Chase

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. Ralph Chase was seated on the Commission in Brian Ameche's place.

The applicant, Fred Melillo, addressed the Commission. He noted the change in location of the landscape islands because of the change of location for the septic system and well. The guard rails along the easterly side and the parking area have been eliminated from the site plan. The Commission viewed the area during a site walk and agreed with use of large rock boulders strategically placed along those perimeters. Fred Melillo then discussed the other items requested as part of the modification, including the garage doors on the north side of the building, elimination of the retaining wall (during excavation, solid rock was found and a retaining wall is not necessary; this was reviewed with the town engineer). The berm will be extended to the point of where it hits rock. A gate is proposed to limit access to the site. He is also proposing a pole light and surveillance camera on the far easterly side of the building to shine back on the garage doors. The use of downlighting for all lights was discussed; all lights are on motion detectors.

Geoffrey Colegrove asked about the pole height, recommending that it stay below the height of the roof, which is 23 feet. No more than 20 feet would be desirable, with 15-16 feet in height preferable.

A temporary stockpile is now depicted on the plans. This was an oversight in the original plans. The amount of on-site paving has been reduced, primarily to the east of the main building. A catch basin has been eliminated (replaced with swale) and a second catch basin relocated. Footing drains have also been added; these were not shown on the original plans.

Richard Eriksen stated that the Inland Wetlands Commission had reviewed these changes and approved the detention basins with the stipulation that the town engineer be instructed to

supervise erosion control of any activities taking place in the immediate area of the wetlands. The Inland Wetlands Commission is also interested in having the temporary stockpile removed as quickly as possible—but is leaving disposition of that matter to the Planning and Zoning Commission.

Jan Melnik noted that during the site walk, Richard Eriksen recognized the steep drop off at the southwest corner of the property and is recommending the installation of a fence of some type behind the plantings along the top of the berm in the area of that steep drop off.

Attorney Joan Molloy (now in attendance at the hearing) stated there would be no objection to that installation.

Richard Eriksen indicated that a stockade fence might be the most appropriate type of fencing and would have the added benefit of helping to reduce light and noise.

Attorney Joan Molloy also noted that additional plantings have been added to the south corner. George Eames indicated that in a site walk earlier in the day, it was observed that about five trees had died; these need to be replaced.

Fred Serle, 608 Wallingford Road, addressed the Commission. He stated that during the March 7, 2001, meeting, it was indicated that water or sprinklers would be used to keep dust down; to date, no dust control measures have been used.

Diana Cruise, Mountain Road, addressed the Commission. She stated that on August 6, 2003, it was promised by the applicant that additional trees would be placed along her property to provide for yearround landscaping; this has not been done to date.

Sandy Kovach, Mountain Road, thanked Richard Eriksen for his recommendation of a stockade fence.

David Dingwell asked why a light pole with a camera was necessary if a gate is going to be installed. He mentioned continuing problems with the lights shining into his home.

William Cruise, Mountain Road, stated that instead of installing a fence, the sharp drop-off should be properly finished off with the materials on the site.

Diana Cruise asked the purpose for a security camera, given that since she has resided in the area since the 1960s, the only trucks/people accessing the site are connected with Greenland Realty. She also noted that the motion detector lights are on all night long. She expressed frustration with having to continually call Maryann Boord, George Eames, and Richard Eriksen about the lights being on all night. She also stated that the activities at the site are supposed to stop by 3:30 p.m., however, this is not the case. She also stated her continued frustration with the applicant's activities and nonresponsiveness making "bogus fools out of the Planning and Zoning Commission and Maryann Boord."

Cindy Turcik, Mountain Road, expressed concern with the dust along Mountain Road and asked if the road would eventually be "tarred over." Part of the agreement is to pave from the apron up to the driveway accessing Greenland Realty. However, there has been a delay because of the culvert situation that must be fixed by the town.

Geoffrey Colegrove indicated that during one site visit in the summer, there was not a water wagon, but a front-end bucket loader with water. A water truck/sprinkler system or calcium chloride would produce more satisfactory results.

Sandy Kovach asked about how the door already added to the north of the building could be requested now as a modification; she also asked if another lessee would be coming in to occupy the space.

Bill Cruise stated that the door on the north is in direct violation of the original site plan. All doors were to be located on the east side of the building. In addition, the interior of the building was partitioned off into separate compartments from the rest of the building. He asserted that the applicant had lied to the Commission and rented that portion of the building to an individual who happens to be a friend of Bill Cruise.

George Eames indicated that the applicant had been questioned in August; there is no tenant now.

Geoffrey Colegrove indicated that the space was originally to house smaller pieces of equipment, parts, generators, etc.

Diana Cruise stated that the tenant was told to “hang in there, once the application is approved, he can move back.” George Eames expressed understanding of the situation, but indicated that this is hearsay.

Attorney Joan Molloy reiterated that the applicant will address the dust control situation. She also stated that the applicant is willing to place trees on the Cruises’ property; however, this will not be done without the consent of the Cruises. She stated that she would work this out with the Cruises.

Attorney Molloy stated that the reason for the surveillance cameras is to document the activity that is supposedly occurring on the site during the night. Motion detectors will be recalibrated to ensure that they are not coming on unnecessarily. She also stated that the paving has been delayed because of the town’s role in installing the rest of the piping/storm drainage (needs to be complete before paving). With regard to the door at the north end of the building, had she been able to control this, she would have. In terms of rental of part of the building, Attorney Molloy indicated that if the activity is covered under the Design Development District requirements, there should be nothing to prohibit use of this portion of the building, once the overall site is approved.

Geoffrey Colegrove indicated that there is a “world of difference” between leasable space and storage on the property. If a different use is desired, the applicant needs to come before the Commission.

Attorney Molloy asked if a cease-and-desist order was still necessary; the applicant is fearful of being out of compliance while trying to do this finish work.

Geoffrey Colegrove urged the applicant to complete the spreading of topsoil and seeding during the narrow window of time available this fall to help stabilize the site.

Attorney Molloy stated that the Commission does not want to give the option of bonding for incomplete work. Instead, there is a presumption that the work will all be completed with the approval of the modified site plan and the lifting of the cease-and-desist order. If the work cannot be completed, then it can be bonded in order to get a certificate of occupancy.

Richard Eriksen noted that either the proposed stock pile or the existing stock pile is within 100 feet of wetlands.

Motion by Jan Melnik, seconded by Al Bradanini, to close the public hearing of Greenland Realty, LLC, Request modifications to site plan to relocate landscaping island, replace guardrails, add trees, add additional garage door to building, eliminate retaining wall, add gate to restrict access to site, add pole with light and surveillance camera, add temporary storage stock pile area, reduce on site paving, eliminate catch basin and replace with swale, relocate second catch basin, add footings drains. Motion carried unanimously.

PUBLIC HEARING

4. Applicant/Owner: Greenland Realty, LLC
Location: 10 Mountain Road
Application: Site plan review for removal of excess material stockpiled on site

Members: Al Bradanini, George Eames, Richard Eriksen, Jim Kowolenko, Jan Melnik,
Jackie Snow

Town Planner: Geoffrey Colegrove

Alternate: Ralph Chase

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. Ralph Chase was seated on the Commission in Brian Ameche's place.

Attorney Joan Molloy of Laughlin Fitzgerald in Wallingford addressed the Commission on behalf of the applicant. She stated the oversight of the original site plan not reflecting the temporary stockpile area. This is now on the plans that have been modified for review/approval.

She stated the result of a customary construction process is scraping off topsoil, stockpiling until the site is ready to be closed up, then spread around the site with seeding and landscaping then transpiring. Mr. Melillo found more than the usual depth of topsoil when he began working the site, nearly 18 inches in depth. The topsoil is intended for use on the site—but there is far more material than will ever be needed on the site, even including that which is required for the swale, detention basin, and basis for seeding. Therefore, the applicant is seeking permission to remove the excess material from the site.

Two major issues surround this: the timeframe for completing this removal and the processing restrictions. In the original proposal, screening was allowed as an accessory use under a very limited schedule (about one week per month from 7 a.m. to 3:30 p.m.). However, the volume that exists was not anticipated originally. There will probably be in excess of 20,000 cubic yards of material. Mr. Melillo may be a successful bidder on a municipal project that would require some 14,000 to 15,000 cubic yards of material (not screened).

This project should be accomplished quite quickly, if it goes forward. Attorney Molloy indicated that the balance of the material would be moved based upon seasonal demands (with fall and spring the two heaviest seasons for demand, followed by summer). She suggested that if the Commission grants approval of the application and provides a one-year permit, she would be willing to come back in a year to discuss an extension if necessary.

In describing screening, this is an operation that is much quieter than rock crushing. However, the applicant would like the ability to use this on a daily basis and not just one week per month. Fred Melillo estimated that of the approximately 20,000 total cubic yards of material, between 1,000 and 2,000 cubic yards would be used on the site.

Geoffrey Colegrove asked for clarification of the screening equipment. It is a Chieftain 600 hydraulic shaker screen with a 4-cylinder diesel motor. He noted that there is a standard in the regulations for noise generated at the property line.

Richard Eriksen expressed concern with an extended timeframe for the applicant to dispose of the excess material. The fact that this application has grown into a mining operation was not the intent of the Commission. He is anxious for the site to be restored to the expectations outlined on the site plan. He added that it is “not right that there’s a gravel operation, mining operation up there.”

Diana Cruise stated that the stockpile has grown with incremental dirt brought in all last summer, truck after truck. She stated that the applicant is fully aware that all of the material did not come from that site. She also referenced hours of operations, which should be Monday through Friday only (no weekends) from 8 a.m. until 3 p.m.

William Cruise asked if screening is permitted, would it be a one-shot deal that would not continue—only to get rid of the excess material.

Sandy Kovach cited frustration with the whole process, noting how tired she, her neighbors, and the Commission must be of the entire situation, which she described as corrupt.

Motion by Al Bradanini, seconded by Jan Melnik, to close the public hearing of Greenland Realty, LLC, Site Plan Review for removal of excess material stockpiled on site, 10 Mountain Road. Motion carried unanimously.

Motion by Ralph Chase, seconded by Al Bradanini, to reconvene the regular meeting at 10:20 p.m. Motion carried unanimously.

17. Greenland Realty, LLC, 10 Mountain Road, Request modifications to site plan to relocate landscaping island, replace guardrails, add trees, add additional garage door to building, eliminate retaining wall, add gate to restrict access to site, add pole with light and surveillance camera, add temporary storage stock pile area, reduce on site paving, eliminate catch basin and replace with swale, relocate second catch basin, add footings drains

Geoffrey Colegrove advised that the Commission indicate timeframe on the site plan. Discussion ensued regarding the fact that asphalt plants close early, depending upon the weather, and the limited time between now and the end of November for paving. He added that completing the

drainage and paving would be a good step toward reducing dust, noise, and other concerns. The drainage requires the pipe from the town (Kurt Bober) in order to get to a state of completion.

George Eames commented on the garage door that was installed on the north side of the building. The original site plan did not feature this—all doors were to be facing east.

Jan Melnik stated that she would be in favor of an approval of the requested modifications with the following exceptions: (1) the door to the north must be removed; (2) the freestanding light pole/surveillance camera facing the building not be installed; (3) lights be removed from the southern end of the building; and (4) the stockade fence discussed earlier be installed in all areas of dropoff around the southwesterly corner.

Jim Kowolenko and George Eames concurred with removal of the garage door. George Eames added that the rest of the problems are not that complicated to resolve. He would like to see the neighbors protected as much as possible.

Ralph Chase stated that he had “zero confidence” that what the Commission stipulates will be carried out by the applicant. To date, he has seen no evidence to the effect that the client is trying to comply with the Commission’s request. He would like to see one or two important criteria selected (i.e., the stockpile and the stockade fence) with specific timelines imposed—then discuss some of the other matters.

Geoffrey Colegrove said that the garage door on the front of the building is a major issue; it was never part of the original plan and directly violates the principle of requiring doors facing the east so as to insulate neighbors. In addition, lighting is apparently a problem.

The Commission then discussed the complexity of determining the actual operation itself. Going back to the original approval, this is what binds the application and operation of the site. However, time has demonstrated that those original representations do not match what has transpired at the site.

Motion by Jan Melnik, seconded by Al Bradanini, to approve request of Greenland Realty, LLC, 10 Mountain Road, for modifications to the site plan as follows: to relocate landscaping islands, replace guardrails, add trees on southerly boundary, to comply with agreement made between Fred Melillo and Mr. and Mrs. William Cruise for tree planting, to remove the garage door added to the northerly side of building, to eliminate retaining wall, to install stockade fence wherever slope exists in areas of the vertical cut, to add gate to restrict access to site, to reduce on-site paving, to complete on-site paving near building and install asphalt between entryway and paved portion of Mountain Road by the end of November, to eliminate catch basin and replace with swale, to relocate second catch basin, to add footing drains, to replace three existing lights on the southerly side of the building with full cutoff light fixtures no later than October 19 (with exception of the paving work). Motion carried unanimously.

18. Greenland Realty, LLC, 10 Mountain Road, Site plan review for removal of excess material stockpiled on site

The Commission discussed the removal of materials and agreed that by allowing until March 30 of 2006, sufficient time was being made available to the applicant. The cease-and-desist order remains in place for the time being. Hours of operation were discussed as no earlier than 8 a.m. and ending by 4 p.m. This relates to hauling, bulldozing, screening, and trucking.

Motion by Jackie Snow, seconded by Al Bradanini, to approve the site plan review for removal of excess material stockpiled on site, Greenland Realty, LLC, 10 Mountain Road, to be completed by March 30, 2006, with hours of operation (trucking, bulldozing, screening) to be confined to 8:00 a.m. to 4:00 p.m. on Monday through Friday with screening conducted only at the easterly side of the stockpile. Motion carried unanimously.

Motion by Ralph Chase, seconded by Al Bradanini, to adjourn at 11:15 p.m. Motion carried unanimously.

Respectfully submitted,

Jan Melnik
9/28/2005