

TOWN OF DURHAM

Planning and Zoning Commission

P.O. Box 428

Durham, Connecticut 06422-0428

MINUTES OF MARCH 3, 2010, MEETING

Present

Members: Ralph Chase, Lisa Davenport, Frank DeFelice, Cathy Devaux, Richard Eriksen,
Dave Foley, Chris Flanagan, Joe Pasquale
Town Planner: Geoffrey Colegrove
Alternates: Campbell Barrett, Mike Geremia

Absent

Member: George Eames
Alternate: Mark Laudano

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; Campbell Barrett was present, but unseated.

1. Approval of Agenda

Motion by Dave Foley, seconded by Ralph Chase, to approve the agenda of the March 3, 2010, meeting as presented. Motion carried unanimously.

2. Public Session

No business.

3. Mark Petruzio, Site Plan Review for 1-Day Event for Pet Fair, Allyn Brook Park, Pickett Lane

Mark Petruzio addressed the Commission. A resident of Durham, he and his wife started a nonprofit charity to support pets three years ago. Last year a very successful fair was held at the

Durham Veterinary Hospital on Parmelee Road that attracted—over the course of several hours—about 1,000-1,200 visitors.

This year, they have secured a permit from Regional School District #13 to use the property on both sides of Pickett Lane at Allyn Brook Park for the one-day event on Sunday, May 16, from 11 a.m. until 5 p.m. A tent will be set up in the pavilion area; in addition, there will be demonstrations by the state police and DART in conjunction with representatives from the emergency services/ambulance staff and the fire department. There are no conflicting activities that day (he checked with both soccer and little league).

Parking will be available at Korn, Strong, and Coginchaug; Korn School will also be opened for access to sanitary facilities. There are portapotties on the site as well. Traffic will be prevented from traveling through that area of Pickett Lane and access will be closed at the intersection with Route 17 for the duration of the fair (Dave Foley stated that there will need to be state police presence as the intersection is with a state highway).

Mark Petruzio indicated he had spoken with Rob Francis and Ted Lombardo at Coginchaug regarding parking ideas and the possible use of baseball team players to park vehicles.

Geoffrey Colegrove suggested that Pete DiGioia be consulted regarding the proposed traffic flow.

Motion by Ralph Chase, seconded by Cathy Devaux, to approve the site plan for Mark Petruzio For a one-day event for a pet fair, Sunday, May 16, 2010, at Allyn Brook Park, Pickett Lane. Motion carried unanimously.

4. David and Susan Estabrook, Request for a Proposed Home Occupation Permit for a Mail Order Fasteners Business, 694 Higganum Road

David Estabrook addressed the Commission and described the fasteners business that he has developed based on expertise in aerospace. These particular fasteners are bonded and eliminate the need for screws; they are used in the marine industry as boat fasteners. The business will not have any external employees, there will be no signage, and no one coming into the home for the business. No manufacturing is done at the premises; he simply resells the product in small boxes. A daily delivery/pick-up from UPS will be used.

David Estabrook characterized the business as being conducted via telephone/fax orders; he then will pick orders from bins containing the small parts and ship orders out using UPS. He will use half of the garage as well as one bedroom for office space; the total area occupies less than 25% of the 3,000 square-foot home. There will be no outside storage. He indicated product is sold through manufacturers' representatives; he also travels for the business. All surrounding neighbors were notified and return receipt cards were provided for the record.

Motion by Dave Foley, seconded by Ralph Chase, to approve a request for a home occupation permit for a mail order fasteners business, 694 Higganum Road. Motion carried unanimously.

5. Discussion of Possible Changes to the Home Occupation Regulations

Geoffrey Colegrove distributed a preliminary draft of the language outlining three potential categories:

- 1) home occupation permitted by right without a zoning permit for activities that entail no employees, no evidence, no sign –registration is required, but no fee
- 2) home occupation requires a zoning permit – and, in addition to the above, entails use of garage or accessory building – a registration form is required along with a fee to the town and appropriate fees to the Department of Environmental Protection
- 3) home occupation requires Commission approval – if outside employees are used, there are non-resident visits generated, additional parking is necessary, or a sign is required; a site plan would be required for review by the Commission, abutters would need to be notified, and a fee would be paid to the town

The majority of home occupations in Durham are in the first category. Commission members felt it most appropriate—when requiring notification to neighbors—to stipulate abutters as opposed to those within 100 feet of a property line. It was noted that even if there is an objection cited by an abutter, that doesn't necessarily mean the application will not be approved. Language in the Portland regulations for home occupations (prohibiting auto repair, retail sales, and storage warehousing) was cited as a good idea to incorporate.

Geoffrey Colegrove explained that our regulations do not permit retail sales (different than sale of agricultural products indigenous to a site). He recommended avoiding the requirement for a special permit because—once approved—the use 'runs with' the property. Site plan review means only the permittee is allowed to run the business; if a property is sold, the approved use ceases.

Geoffrey Colegrove discussed designing a checklist to use with applicants.

Cathy Devaux stated her opinion that it is “ridiculous to prohibit retail sales” with home occupations (she noted the situation with the state police officer who—by federal regulations—is required to have customers pick up firearms from his place of residence; the Commission denied the application because of the “no retail sales” stance).

Frank DeFelice expressed concern with there being no provision for imposing limitations once an application is approved (i.e., no jurisdiction over intensification of use).

Geoffrey Colegrove did note that the preamble to the regulations provides for the Commission's right to decide on the basis of a number of criteria, including property values, traffic, hours of operation, etc. There is also a fair amount of ability to set conditions with a site plan review. Any representation by an applicant during the process can be used as a standard for that application.

Geoffrey Colegrove noted that if a home occupation activity ceases for more than 12 months or if an applicant moves from the residence, the use automatically becomes void.

There was considerable discussion over the merits of having three categories versus having just two. Some believed that notification of abutters should be required in both categories two and three. Others believed that if the use is taking place in an accessory building, that category three would automatically apply (with a site plan review required).

Lisa Davenport discussed use of a detached garage (i.e., space over a carriage house) for an office, using her own business as an example. Some on the Commission believe that a “home occupation” means exactly that—one that is physically inside the home.

Geoffrey Colegrove will continue to refine the language and incorporate a section (K) from Haddam’s language for the next draft.

6. Payment of Bills

Motion by Frank DeFelice, seconded by Ralph Chase, to approve payment of the following bills:

- *Middletown Press* - \$98.66 (new charges)
- Absolute Advantage - \$420.96 (minutes of 2/17/2010 meeting)
- Connecticut Federation of Planning and Zoning Agencies – \$90.00 (annual dues)
- Attorney Steve Byrne - \$1,837.50 (District #13 site plan)
- Attorney Steve Byrne - \$350.00 (Arrigoni)
- Attorney Steve Byrne - \$950.00 (Jackson/Greenland Realty)

Motion carried unanimously.

7. Approval of Minutes

Motion by Ralph Chase, seconded by Cathy Devaux, to approve the minutes of the February 17, 2010, meeting as presented. Motion carried, 6-3, with all in favor with the exception of Dave Foley, Richard Eriksen, and Mike Geremia (in abstention).

8. Zoning Enforcement Officer’s Report

Geoffrey Colegrove stated that a note is being placed on the land records for John Jackson (violations of home occupation permit as well as accessory apartment permit). This approach was determined more prudent than legal action in court at this point.

With regard to the enforcement matter on Old Blue Hills Road (composting, agricultural use), the property owner is willing to comply with the requirements of a cease-and-desist letter. The property will be inspected at the end of March to verify compliance.

March 3, 2010

Page 5

Geoffrey Colegrove stated that with regard to the Arrigoni suit, the appeal only proved two of the three criteria; therefore, the Commission's decision was upheld and the appeal was dismissed.

9. Town Planner's Report

Geoffrey Colegrove stated that negotiations continue between Regional School District #13 and Attorney John Corona/Karen Cheyney. At this point, Attorney Steve Byrne characterized talks as not looking particularly good for a settlement. If a consensus cannot be reached that will settle the case, the matter will proceed in court. Two items were appealed: the Commission's approval of the site plan and the separate approval of the lights. At issue appears to be the matter of sound/noise.

Geoffrey Colegrove indicated that he was beginning preliminary work on the Durham Plan of Conservation and Development. While census data from the 2010 collection won't be available for 18 months or so, other information is available through the state. He did advise that because of an error at the state with respect to categorizing of soils/areas of conservation, corrections need to be made (by the state) to the maps. To Frank DeFelice's question, Geoffrey Colegrove stated there could be possible impacts to funding (including STEAP grants) if this matter is not addressed. To date, the state has not had the resources to correct the bad data.

Eventually a subcommittee should be created by the Commission for work on the Plan of Conservation and Development.

Motion by Dave Foley, seconded by Frank DeFelice, to adjourn the meeting at 9:08 p.m. Motion carried unanimously.

Respectfully submitted,

Jan Melnik

3/10/2010