

TOWN OF DURHAM

Planning and Zoning Commission

P.O. Box 428

Durham, Connecticut 06422-0428

MINUTES OF NOVEMBER 18, 2009, MEETING

Present

Members: Frank DeFelice, George Eames, Richard Eriksen, Dave Foley,
Jim Kowolenko, Gene Riotte
Town Planner: Geoffrey Colegrove
Alternate: Stuart Keating

Absent

Members: Ralph Chase, Cathy Devaux, Tom Russell
Alternates: Mike Geremia, Mark Laudano

The meeting was called to order by George Eames, Chairman, at 7:30 p.m. Stuart Keating was seated on the Commission in Cathy Devaux's place.

1. Approval of Agenda

Motion by Dave Foley, seconded by Stuart Keating, to approve the agenda of the November 18, 2009, meeting as presented. Motion carried unanimously.

2. Public Session

Diana Cruise noted a correction to the minutes of the November 4, 2009, meeting should be made under public session, page 1. She stated that Quality and Muzzy are hauling in materials regularly; an unknown company was moving the heavy equipment.

3. Greenland Realty, LLC, Request for Modifications to An Existing Site Plan to include outside storage of construction equipment/vehicles and on-site fuel tanks, 10 Mountain Road

Geoffrey Colegrove advised that the applicant withdrew the original application.

A new application was submitted (during the review cycle of the first application, time was exhausted).

Geoffrey Colegrove provided Commission members with copies of minutes containing discussions about Greenland Realty from previous meetings over the past five or more years. He indicated there was nothing said about landscaping in the application or in the minutes.

Frank DeFelice and Ralph Chase recalled this differently, certain that landscaping had been a component of the original presentation before the Commission.

Geoffrey Colegrove reviewed the history, which included various revisions to the site plan (to accommodate accessory parking and outside storage). The initial application did reflect the applicant's representation that trucks would be leaving in the morning and returning in the evening; there would also be the occasional need to store excess earthen materials (topsoil, mulch, and decorative stone) on the site. In both cases, this is not what is happening: there are trucks coming and going at all hours of the day and night; the only materials being stored on the site are sand, gravel, and debris from roadway demolition.

To Jim Kowolenko's question about hours of operation, the only stipulation in this regard was concerning the mining operation (sifting/screening). No hours of operation were imposed for the trucking company.

Geoffrey Colegrove stated that the stockpiles of debris are likely from a mining job on I-91 that the company is handling (mixed asphalt and materials). He advised that the Commission proceed carefully in determining the degree to which it was going to be involved in the specifics of the trucking operation—it becomes a question of degree. However, it was noted by several Commission members that there aren't the years of ongoing complaints from neighbors about other activities of companies in town.

Members of the Commission indicated that had it been represented that there would be trucks coming to and going from the site all day and night long, it would have been likely that hours of operation would have been considered. Most agreed that the sand, rocks, and roadway construction debris are *not* the same as topsoil, mulch, and decorative stone.

Geoffrey Colegrove encouraged the Commission to consider discussion of the character of the operation or hours of operation and *not* the specific materials.

The new application before the Commission is for the outside parking of vehicles along the edge of the berm where the stone barrier is located as well as an external fuel tank.

Frank DeFelice suggested the applicant also apply for a storage area for the material in the back of the property, the storage of equipment outside, and hours of operation—in other words, a consolidated application so that all of these issues can be clarified. Jim Kowolenko indicated that it was not the intent of the Commission to have such an activity in the middle of the Design Development District.

Geoffrey Colegrove reflected on the previous application of the Durham Rod and Gun Club (with respect to hours of operation; the court battle was lost on that point); however, if an application is being made for a use, it can have hours of operation affixed. Whether or not those hours of operation can be extended to the entire situation is another matter. If the applicant is willing to resubmit an application for the entire site and its activities, then hours of operation for the whole site can be established.

Commission members agreed that the scale of operations was definitely not what had been presented or approved, in their opinion.

It was further agreed that Attorney Steve Byrne would be asked to review the entire matter and then come before the Commission at the December 2, 2009, meeting to discuss the Commission's options.

It was noted that the regulations don't address, with respect to excavation, the quantity of material that has been brought onto the site. Limitations are not spelled out about "how high the pile can go."

Geoffrey Colegrove stated that the dust complaints are legitimate and that this situation is inexcusable. If a trucking operation is going to be run, it is reasonable to expect areas to be protected with paving (and not via a watering truck). He noted there might be the possibility of achieving compromise through offsets.

Jim Kowolenko reiterated—and Dave Foley concurred—that the original approval was *not* for a trucking operation.

Motion by Stuart Keating, seconded by Dave Foley, to forward the full Greenland Realty case to Attorney Steve Byrne for review and then presentation/discussion with the Commission at the December 2, 2009, meeting. Motion carried unanimously.

The Greenland public hearing and the DiNatale special permit public hearing will both be held December 16.

4. Payment of Bills

Motion by Dave Foley, seconded by Gene Riotte, to approve payment of the following bills:

- Attorney Steve Byrne - \$1,462.50 (Arrigoni case)
- Absolute Advantage - \$459.06 (minutes, 11/4/09 meeting)
- *Middletown Press* - \$336.42 (legal notices)

Motion carried unanimously.

5. Approval of Minutes

Motion by Dave Foley, seconded by Gene Riotte, to approve the minutes of the November 4, 2009, meeting as revised to reflect correction on page 1 (Quality/Muzzy trucking is hauling material, separate from the heavy equipment on site). Motion carried unanimously.

6. Zoning Enforcement Officer's Report

Geoffrey Colegrove advised that Al Johanson, the Zoning Enforcement Officer, was addressing a problem of "roaming chickens" on New Haven Road as well as several vehicular complaints.

7. Town Planner's Report

Geoffrey Colegrove advised that there are two pending litigations over the Regional School District #13 approvals (specifically, the site plan approval and the 80-foot light poles). A third suit regarding the change to the regulations was not filed in time by statute. Attorney Tim Hollister, representing the school district, has offered assistance in developing the record. Geoffrey Colegrove advised that his office was nearly complete in preparing the physical record/exhibits and that Jan Melnik was working on the transcript. Jan indicated that the transcripts would be complete for all hearings the first week in December. This will enable return of the record well in advance of the mid-December return date.

The district is hoping for an expedited hearing process. Dave Foley urged Geoffrey Colegrove and the Commission to do whatever was possible to help expedite the matter.

8. Miscellaneous

Gene Riotte asked the status of the illuminated TD Bank sign (the new sign is internally illuminated). Geoffrey Colegrove stated that this sign replaced a previously internally illuminated sign (which is permissible).

Geoffrey Colegrove stated that he had talked with Attorney Steve Byrne, who will be following up with Mr. Jackson, Main Street, on violations to various permits (home office, apartment, etc.).

Jim Kowolenko stated that he would be unable to attend the December 2, 2009, meeting and that that would have been his last meeting. The Commission thanked Jim for his many years of dedicated service to the Commission; he was wished well and he will be missed.

Motion by Stu Keating, seconded by Dave Foley, to adjourn the meeting at 8:52 p.m. Motion carried unanimously.

Respectfully submitted,

Jan Melnik
12/2/2009