

# TOWN OF DURHAM

## **Planning and Zoning Commission**

P.O. Box 428

Durham, Connecticut 06422-0428

### **MINUTES OF FEBRUARY 18, 2009, MEETING**

#### Present

Members: Ralph Chase, Frank DeFelice, Cathy Devaux, George Eames,  
Jim Kowolenko, Gene Riotte, Tom Russell  
Town Planner: Geoffrey Colegrove

#### Absent

Members: Richard Eriksen, Dave Foley  
Alternates: Mike Geremia, Mark Laudano, Stuart Keating

The meeting was called to order by George Eames, Chairman, at 7:30 p.m.

#### 1. Approval of Agenda

Motion by Frank DeFelice, seconded by Cathy Devaux, to approve the agenda of the February 18, 2009, meeting as presented but with reversal of items 2 and 3 on the agenda. Motion carried unanimously.

#### 2. Public Session

No business.

#### 3. Connecticut Horse Cremation, LLC, Proposed Zoning Text Amendments to Sections 02.12.01., 02.09.01., 07.01.03., and New Section 12.05.04.04

Representing the applicant, Attorney John Corona stated that he would like to have the public hearing scheduled when as many members of the Commission can be present as possible. It was agreed that the public hearing will open on April 15. The applicant will provide a letter granting an extension.

4. Mark Rosenblit, Request for a Proposed One-lot Subdivision on Approximately 5.88 acres of land, Pisgah and Laurelbrook Roads, Owner: Ellen Rosenblit

The applicant was not in attendance; however, Geoffrey Colegrove pointed out that as the public hearing was closed, the applicant could not speak. He stated that the project engineer informed the Commission that he was not empowered to negotiate for the owner in his absence on the day that the public hearing closed. However, before the owner will go forward and negotiate with the neighbors regarding alternative site access, he is seeking a project approval so that something is in place. The applicant is seeking the Commission's action on the plan as submitted; if there is a change in driveway access, then the applicant would return to the Commission for an approval.

Geoffrey Colegrove indicated that there has been approval from the town engineer, town sanitarian, and the fire chief. Therefore, the Commission can either approve, modify, or disapprove the application; all technical requirements have been met.

Motion by Jim Kowolenko, seconded by Ralph Chase, to approve the application of Mark Rosenblit, request for a one-lot subdivision of approximately 5.88 acres, Pisgah and Laurelbrook Road, owner: Ellen Rosenblit; subject to (1) any change in driveway location requires resubmittal to Commission; (2) engineer-supervised retaining wall is required during construction; and (3) enlarged turnaround at top of the driveway will be acceptable to fire department and the town engineer. Motion carried unanimously.

5. Discussion of Structures and Yards

New language with modifications based on the Commission's previous discussion was distributed. Geoffrey Colegrove will provide referrals to adjacent regional planning agencies (will require 35 days for decision).

Frank DeFelice asked how construction trailers and box trailers would be handled. While there is a provision for construction trailers while homes are being built (one year plus one year renewal), it was agreed this should be considered. Geoffrey Colegrove will look into the regulations to see where to put in temporary storage or construction trailers aside from mobile homes for construction; he suggested this probably belongs in a different section of the regulations.

The Commission thought that 30 days would be appropriate to include in the language for temporary buildings located on the parcel (i.e., for weddings, anniversaries).

Geoffrey Colegrove will return with the modified language for the Commission's review—to address new, existing, reconstruction, and storage trailers.

6. Payment of Bills

Motion by Ralph Chase, seconded by Gene Riotte, to approve payment of the following bills:

- Absolute Advantage – \$495.31 (minutes 1/21/09)
- Absolute Advantage – \$294.63 (minutes 2/4/09)
- Attorney Thomas Byrne – \$3,275.00 (Arrigoni case)

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

7. Approval of Minutes

Motion by Tom Russell, seconded by Frank DeFelice, to approve the minutes of February 4, 2009, meeting as amended to reflect clarification of driveway base width for Cuomo subdivision (24-foot wide base). Motion carried, 6-1, with all in favor with the exception of Gene Riotte (in abstention).

8. Town Planner's Report

Geoffrey Colegrove indicated that the Jackson accessory apartment matter is going before the Zoning Board of Appeals later this week. Mr. Jackson has apparently misunderstood the problems with the accessory apartment and the home occupation. Two letters have already been sent; a show-cause hearing is recommended.

With regard to Tom Starr, Wheeler Hill Road, Geoffrey Colegrove indicated that he had met with the state trooper and had been provided with a list of current registrations for the property. At some point, there were ten registered vehicles on the property. At the time of the visit, two registrations had expired and two more will be expiring in a month or two. This will be monitored.

Motion by Ralph Chase, seconded by Tom Russell, to recess the regular meeting for the public hearings at 8:00 p.m. Motion carried unanimously.

**PUBLIC HEARING**

1. Applicant/Owner: Cuomo Construction, Inc.  
Request: Request for a Special Permit to Construct 4 Buildings  
For Active Adult Development, CT Route #17 and  
Meetinghouse Hill Road

Present

Members: Ralph Chase, Frank DeFelice, Cathy Devaux, George Eames,  
Jim Kowolenko, Gene Riotte, Tom Russell  
Town Planner: Geoffrey Colegrove

George Eames, Chairman, opened the public hearing.

Attorney John Corona addressed the Commission on behalf of the applicant. Comments have been received from the town engineer. Geoffrey Colegrove distributed an example of condo documents that are used in Connecticut. He also discussed the firepond area.

Pat Benjamin, the project engineer, addressed the Commission with regard to specific engineering items on the project, including conservation easement and easement to the town for tree trimming.

The town sanitarian has approved the application as well as the fire department. Pat Benjamin stated that the bedroom count estimate was incorrect; the actual number is 13 bedrooms. He then reviewed the proposed access to a manhole by the fire department.

Frank DeFelice expressed concern with the upstairs loft space being turned into a bedroom.

Motion by Frank DeFelice, seconded by Ralph Chase, to close the public hearing on the request for a special permit to construct four buildings for active adult development, CT Route #17 and Meetinghouse Hill Road. Applicant/Owner: Cuomo Construction, Inc. Motion carried unanimously.

### **PUBLIC HEARING**

2. Applicant/Owner: Phillip Milidantri  
Address: 80R Turkey Hill Road  
Request: Request for a Special Permit for an Accessory Apartment

#### Present

Members: Ralph Chase, Frank DeFelice, Cathy Devaux, George Eames,  
Jim Kowolenko, Gene Riotte, Tom Russell

Town Planner: Geoffrey Colegrove

George Eames, Chairman, opened the public hearing.

Pat Benjamin, the project engineer, addressed the Commission. Lot 13 is the last lot on Turkey Hill Road, an 11-acre piece on the west side of Powder Hill Road. The proposal is for a dwelling for the family and an in-law apartment for the applicant's parents. Five letters of approval were presented from neighbors all in the immediate vicinity and read into the record.

The town sanitarian, Bill Milardo, stated that the proposed subsurface sewage disposal system complies with the health code; his letter included details regarding system cleanout requirements.

Motion by Ralph Chase, seconded by Frank DeFelice, to close the public hearing of Phillip Milidantri, request for special permit for accessory apartment, 80R Turkey Hill Road. Motion carried unanimously.

### **PUBLIC HEARING**

3. Applicant: Joseph Pasquale  
Request: Request for a Zoning Text Amendment, Section 06.02  
"Maximum Size of Single Structure" to change 30,000  
sq.ft. to 15,000 sq.ft.

#### Present

Members: Ralph Chase, Frank DeFelice, Cathy Devaux, George Eames,  
Jim Kowolenko, Gene Riotte, Tom Russell  
Town Planner: Geoffrey Colegrove

George Eames, Chairman, opened the public hearing.

Joseph Pasquale addressed the Commission. By way of disclosure, he stated that he and his wife do own a property in the zone that would be impacted by this language.

He highlighted the benefits of the application, which would limit large-scale, inappropriate development yet still permit commercial growth. He the pointed out inherent problems: Main Street traffic and issues from the over-development. He also discussed the Main Street corridor study. He then discussed sizes of various commercial buildings and compared them to the former Silver Eagle project. He believed that the proposed change does not impact the desired development objectives of the town.

#### *In favor of the proposal:*

- Duncan Milne
- Susan Good

#### *Speaking in opposition to the proposal:*

- Hugh Curley
- Attorney Tom Cody with Robinson Cole in Hartford addressed the Commission on behalf of RECO (Real Estate Asset Development Company, Old Lyme, CT).

#### *Other speakers not specifically stating in favor/opposed:*

- Trish Dynia asked for examples of buildings that are 15,000 sq.ft. and 30,000 sq.ft.
- Cathy Devaux asked where this limitation would be applied; the proposal would be for all commercial properties.
- Margie Dahlmeyer expressed concern with a proposal limiting commercial development, in particular, if any new commercial zones were created.
- Susan Good asked how the proposal dovetails with smart growth planning and the town's plan of development.
- Roger Kleeman asked how the 15,000 sq.ft. limitation would affect a public building being constructed in commercial zone.
- Frank DeFelice stated that regulations have gone from no limitations to 40,000 sq.ft., then to 30,000 sq.ft. He asked Joseph Pasquale to explain why 15,000 is the right number.
- Pasqualino Aparo, Parmelee Hill Road asked what is needed for economic survival for a 15,000 sq.ft. building versus a 30,000 sq.ft. building.

George Eames discussed Durham's Plan of Conservation and Development provides the guidelines (but noted the corridor study is more than 12 years old). Margie Dahlmeyer responded that the Commission has the responsibility for decision-making; there is not a city manager in Durham.

Frank DeFelice reiterated the Commission's efforts to preserve Durham's charm while achieving a balance between large-scale and small-scale development. Every attempt is made to make decisions in everyone's interest. The Durham Plan of Conservation and Development is the primary tool for ensuring short- and long-range planning.

Joseph Pasquale addressed the Commission, discussing the current commercial buildings and relative size in Durham and the point that a 15,000 sq.ft. limitation would not place a hardship on development.

Attorney John Corona raised a number of issues about the vacancy rates and turnover of businesses in smaller buildings, need for grocery stores and pharmacies in smaller communities, the concerns about Silver Eagle not being building size but traffic related, a large project bringing along ability of developer absorbing cost of road improvements, and the commercial districts being at the two ends of Main Street (the "dumbbell").

George Eames reflected on preamble to Plan of Conservation and Development, indicating the Commission likes to see balance, which is difficult to do, but with controlled, orderly growth.

Ralph Chase expressed his preference for keeping options open (for commercial development) and addressing them "piece by piece while determining what is best for the town."

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Motion by Ralph Chase, seconded by Tom Russell, to close the public hearing of Joseph Pasquale, request for zoning text amendment, Section 06.02., "Maximum Size of Single Structure" to change 30,000 sq.ft. to 15,000 sq.ft. Motion carried unanimously.

Motion by Tom Russell, seconded by Frank DeFelice, to reconvene the regular meeting at 9:44 p.m. Motion carried unanimously.

9. Cuomo Construction, Request for a Special Permit to Construct 4 Buildings for Active Adult Development, CT Route #17 and Meetinghouse Hill Road

Motion by Frank DeFelice, seconded by Cathy Devaux, to approve the application of Cuomo Construction, request for a special permit to construct four buildings for active adult development based on conditions in recent Brain Curtis/town engineer letter and with following: 13-bedroom limitation with deed restrictions and the site plan both reflecting this number of bedrooms. Motion carried unanimously.

10. Phillip Milidantri, Request for a Special Permit for an Accessory Apartment, 80 Turkey Hill Road

Motion by Frank DeFelice, seconded by Ralph Chase, to approve the application of Phillip Milidantri, request for a special permit for an accessory apartment, 80R Turkey Hill Road. Motion carried unanimously.

11. Joseph Pasquale, Request for Zoning Text Amendment, Section 06.02., "Maximum Size of Single Structure" to change 30,000 square feet to 15,000 square feet

Motion by Ralph Chase, seconded by Gene Riotte, to approve the application of Joseph Pasquale, Request for Zoning Text Amendment, Section 06.02., "Maximum Size of Single Structure" to change 30,000 square feet to 15,000 square feet. Motion unanimously denied.

Gene Riotte commended Mr. Pasquale as a citizen for his efforts in bringing forward such an application, conducting the due diligence that he had, and being comfortable with the governmental process afforded through the public hearing before the Planning and Zoning Commission to pursue such a matter, regardless of outcome.

Motion by Tom Russell, seconded by Frank DeFelice, to adjourn the meeting at 10:10 p.m. Motion carried unanimously.

Respectfully submitted,

Jan Melnik  
2/23/2009