

# TOWN OF DURHAM

## **Planning and Zoning Commission**

P.O. Box 428

Durham, Connecticut 06422-0428

### **MINUTES OF SEPTEMBER 16, 2009, MEETING Durham Public Library / Coginchaug Regional High School Auditorium**

#### Present

Members: Ralph Chase, Frank DeFelice, Cathy Devaux, George Eames,  
Richard Eriksen, Dave Foley, Jim Kowolenko, Gene Riotte, Tom Russell  
Town Planner: Geoffrey Colegrove  
Alternates: Mike Geremia, Stuart Keating

#### Absent

Alternate: Mark Laudano

The meeting was called to order by George Eames, Chairman, at 7:30 p.m., initially at the Durham Public Library (the meeting subsequently moved to the high school at 8:00 p.m.). Stuart Keating was seated in Gene Riotte's place until Gene arrived shortly after 8:00 p.m. Mike Geremia was presented but unseated.

#### 1. Approval of Agenda

Motion by Ralph Chase, seconded by Stuart Keating, to approve the agenda of the September 16, 2009, meeting as amended to reflect deletion of Greenland Realty and Pasquale DiNatale, text amendment (both public hearings postponed: Greenland to October 21, 2009, and Pasquale DiNatale to October 7, 2009) at request of both applicants as well as deletion of discussion of these two hearings later in the agenda. Motion carried unanimously.

#### 2. Public Session

No business.

3. Kyle Backus, Site Plan Review for an Eagle Scout Project to install signage at the Durham Fire House, Main Street or the Skating Pond, Wallingford Road for the Public Safety Committee; owner: Town of Durham

Frank DeFelice, as chairman of the Public Safety Committee, recused himself. He stated that he had been approached by Kyle Backus, an Eagle Scout, who is proposing to install a wooden sign without illumination for display of safety messages. While an alternate location has been proposed (the skating pond on Route 68), the preferred location would be in front of the fire house.

Kyle Backus addressed the Commission and described the proposed sign. Messages similar to those that appear in Cheshire would be rotated periodically (traffic safety, changing smoke detector batteries, house numbers being visible from the street, etc.). The sign would be positioned to the north of the driveway, nearer to the street (past the sidewalk) between two existing trees. There was discussion regarding the sign being installed on state property.

Frank DeFelice acknowledged that there may be a need to get approval from the Department of Transportation; approval will also be sought from the Historic District Commission. Kyle Backus stated that the position was selected with line of sight in mind. Geoffrey Colegrove indicated that with the approval of the DOT, the sign could be placed nearer to the road; he could then sign a permit.

4. Little Lane, LLC, Interior Lot Review

Attorney John Corona addressed the Commission. The lot size is a little under five acres off the dead-end road, Snell Road, that ends in Middlefield. There were several lots approved in the recent year for the Gastler family in that vicinity. A 500-foot access strip extends in to the interior lot. Because of that fact (interior lot), a review/approval is required.

Attorney Corona stated that because it is a first split, there is not a subdivision. The circles for the wells can overlap property lines when there is not a subdivision. The lots have been tested by Bill Milardo. There will be separate driveways as well as septic systems designed by Pat Benjamin. The interior lot is off Snell Road; the other lot is off Little Lane. Minimum rectangles are accommodated on both sites.

Motion by Ralph Chase, seconded by Tom Russell, to approve the interior lot review for Little Lane, LLC. Motion carried unanimously.

5. Town Planner's Report

George Eames advised that the Connecticut Appellate Court denied the petition for certification to appeal filed by Silver Eagle; this concludes the matter.

Geoffrey Colegrove indicated that all of the vehicles on 106 Old Farms Road are registered.

Al Johanson, the Zoning Enforcement Officer, is working on a situation on Clementel Drive (remnants of construction company jobs on the property).

Geoffrey Colegrove advised that the farming operation on Parmelee Hill Road appears to now be in compliance (noncommercial farm operation).

6. Payment of Bills

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

- Absolute Advantage, minutes of 9/2/09 meeting - \$590.16

Motion carried unanimously.

7. Approval of Minutes

Motion by Ralph Chase, seconded by Dave Foley, to approve the minutes of the September 2, 2009, meeting as presented. Motion carried, 8-1, with all in favor with the exception of Tom Russell (in abstention).

8. Greenland Realty, LLC, Mountain Road

Motion by Dave Foley, seconded by Ralph Chase, to approve the request of Attorney Joan Molloy on Greenland Realty, LLC, modification to an existing site plan to include outside storage of construction, etc., for an extension of the public hearing and application to October 21, 2009. Motion carried unanimously.

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

Motion by Dave Foley, seconded by Ralph Chase, to adjourn to the Coginchaug Regional High School auditorium for the continuation of the Regional School District #13 public hearing and new hearing. Motion carried unanimously.

## PUBLIC HEARING

1. Applicant: Tim Hollister, Esq.  
Property Location: Pickett Lane  
Request: Modification to Approved Site Plan for Athletic Field,  
Regional School District #13

### Present

Members: Ralph Chase, Frank DeFelice, Cathy Devaux, George Eames, Richard Eriksen,  
Dave Foley, Jim Kowolenko, Gene Riotte, Tom Russell  
Town Planner: Geoffrey Colegrove  
Alternates: Mike Geremia, Stuart Keating

George Eames, Chairman, opened the continued public hearing and read the legal notice, noting that the meeting location for the public hearing had been moved from the Durham Public Library to the Cuginchaug Regional High School auditorium. Mike Geremia and Stuart Keating were present but not seated on the Commission.

Geoffrey Colegrove advised that he had spoken with Attorney Steve Byrne regarding the purview of the Commission to weigh in on the matter of artificial turf versus a natural grass field. While he did not have a written opinion to provide the Commission, he indicated that the conversation was extensive and that composition of the turf is *not* a Planning and Zoning issue. The similarity was drawn to wiring in a diagram for light fixtures not being a Planning and Zoning site plan issue. Therefore, the type of turf planned is not a consideration in the Commission's deliberations. Obviously, that responsibility falls to the Board of Education.

Attorney Tim Hollister, from the firm of Shipman & Goodwin, addressed the Commission on behalf of Regional School District #13. He introduced members of staff and the District present at the hearing: Superintendent Susan Viccaro, Business Manager Ron Melnik, Facilities Manager Rob Francis, Building Subcommittee Chairman Bill Currlin as well as Dick Webb, landscape architect from Clough Harbour, Ted Farvel with Musco Lighting, and Dr. Karen Vetrano of TRC Consulting in Windsor.

He expressed the desire to wrap up all issues related to the modification of the current site plan for the athletic facilities at the high school, including renovation of the track and field, the new practice fields at the Stannard property, the renovation to the tennis court, and parking lot renovations.

Attorney Hollister explained that the second hearing opening this evening would address the proposed regulation amendment that would permit four light poles of up to 80 feet in

height. This would accommodate the last piece of the site plan. He also hoped that this public hearing would be closed this evening.

Attorney Hollister then proposed that the Planning and Zoning Commission approve the regulation amendment this evening, making it effective the earliest possible date following newspaper publication. The Commission could also approve the site plan modifications contingent upon the District returning to the Commission to secure a special permit that would allow for the lights. The other option would be to hold off on approving the site plan until a site permit is applied for (provided that the text amendment is approved). The District cannot apply for a special permit to allow the lighting that is being sought until the regulation amendment is adopted.

Attorney Hollister noted that while the Commission now is aware that it does not have the authority to weigh in on the playing surface, artificial turf had been specified from the beginning of the project planning back in March 2008 as preferred over grass fields; he was not aware of the exact language on the ballot. He added that the District does not have the authority to do anything but what the voters approved.

He also noted that a comment had been made at a previous hearing regarding whether or not the District was spending money wisely in pursuing the renovation project. He stated that this issue was already determined by referendum and that what the Commission would be deciding is whether the site plan as presented was in compliance with the Zoning Regulations; he detailed Section 13.03.03, general standards for site plan approval, as well as Section 12.12.03, design for outdoor lighting. In both instances, the handout provided to the Commission included a chart showing the exact regulations text in a column on the left with the manner in which the site plan is in compliance with those regulations on the right.

For the record, Attorney Hollister indicated that an e-mail had been provided to the Commission detailing facilities in the area with artificial turf fields and outdoor lighting similar to what is proposed (facility behind field house at Wesleyan and facility at Sheehan High School in Wallingford). Letters had also been provided by the fire marshal and the volunteer ambulance corps. Other approvals will be sought following approval by the Planning and Zoning Commission (including the Department of Public Health and others). A proposed set of conditions of approval was provided for the Commission's consideration. These conditions reflect conversations in the first two hearings:

- 1) recognize other approvals will be necessary
- 2) an acoustical engineer will supervise the public address system before it is operational
- 3) seasonal/weekly/daily use is proposed as presented on August 19 for outdoor use of light fixtures; if any material change is proposed, the District will come back before the Commission or Zoning Enforcement Officer
- 4) prior to use of the outdoor lighting, the District will identify the person responsible for the system to the Zoning Enforcement Officer so that there can be a prompt response if there is any problem

- 5) after installation of lighting, under the supervision of the Zoning Enforcement Officer, if anyone from a neighboring property experiences light glare, this will be brought to the attention of the District which will, in turn, work with the lighting consultant to adjust shields and cutoffs to ensure that no one is affected by glare intrusion

Photographs presented by Musco Lighting at the previous hearing were reduced into handouts for the Commission's review.

Attorney Hollister stated that use of the athletic fields would be treated the same as use of the auditorium—on a case-by-case basis.

Dick Webb has worked closely with the offices of Nathan Jacobsen over the past few weeks, reaching consensus on the technical aspects of the plan. He reviewed some of the technical clarifications regarding drains for the practice fields, disposition of drainage, underdrains, retaining wall, and fencing on the walls. He also reviewed details of stormwater rejuvenation and detention, the handicapped ramp and access, and grades for the Stannard property. A conservation easement is proposed to address a condition from the Inland Wetlands Commission (total of 87,650 square feet).

Dick Webb also explained that the 80-foot light poles were represented by the balloon floating from the joint commission site walk; these were suspended at a height reflective of the actual height of the proposed light towers. The height of many of the mature trees in the area does a very effective job of screening some of the views.

Attorney Hollister explained that the District was prepared to offer more information about the artificial turf field; however, in light of Attorney Byrne's recommendation, this part of the presentation will be omitted.

In summary, Attorney Hollister indicated that the District would provide a written extension if necessary so that there would not be an automatic approval after 65 days following the close of the hearing.

George Eames asked if there was an opportunity to address one point raised in the letter from Nathan Jacobsen—increasing the setback to further protect the well; Dick Webb noted that the plans are in compliance with all requirements at this time, but he will investigate possibly increasing the setback.

With respect to onsite traffic management, this was addressed by the traffic engineer during the presentation on August 19.

With respect to the lighting, if there is anyone after installation who believes there is a problem with glare or intrusion, this matter has been addressed in the proposed conditions of approval (lighting engineer will work to install/adjust shields on the cut-offs to ensure this is not a problem).

Frank DeFelice queried the yield on the wells, noting that plans distributed at the site walk indicated 31 gpm; Dick Webb clarified that it is 7 gpm.

Geoffrey Colegrove stated that this had been reviewed with Bill Milardo, town sanitarian. The yield of the well nearest the detention basin is less than 10 gpm, but there is another well on the property that produces substantially more.

To a query about lighting, Dick Webb indicated there is no intention to light the practice fields on the former Stannard property.

Dick Webb responded to questions from Frank DeFelice about the scoreboard; it will have a standard LED-lighted surface. Frank DeFelice contended that this would constitute an internally lit sign, which is not allowed in the regulations. Attorney Hollister reiterated the District's position that because the scoreboard will not feature any advertising, it is not a sign; scoreboards are typically considered clocks.

Attorney Hollister also noted that the schedule distributed to the Commission indicates when lights will be turned off.

George Eames inquired about bathroom facilities for events using the 1,000-person bleachers.

Dick Webb explained that the plans show a concrete foundation where, ultimately, a restroom, team rooms, and the trainers' facility will be constructed. For budgetary reasons, it is not included in the initial stage of the project. The subsurface plumbing to the facility will be constructed. Temporary bathroom facilities will be provided, along with opening of the high school during activities.

Richard Eriksen asked if the initial appropriation included restrooms. Dick Webb explained that the construction of the slab was included in that initial appropriation. He did not believe that it included construction of the support structure itself. Portalets, including those with handicapped accessibility, will be used until such time as the facility is built.

Richard Eriksen suggested that something in the project be substituted by the need for sanitary facilities, something he would consider essential.

The lights will be on a computerized system and automated. A manual override provision will exist with Rob Francis available to turn the lights off if there is any problem.

Bill Currlin addressed the Commission. He stated that several residents have offered to donate labor and materials for much of the construction. For instance, the fields on the Stannard property have been laid out, but there is no funding to prepare them. Many

people have volunteered to do this work. The same is true with the foundation slab for the restrooms/building. The architect has designed the building and there are people who have offered to generously handle the construction. This is one way that the Board saves money, relying on the volunteer efforts of a generous community. Bill Currin reiterated that the building with bathrooms, team rooms, and trainers' facility would be built.

George Eames asked Jan Melnik to read into the record the correspondence received. The following letters were read in their entirety with brief sentiments reflected below (the spelling of some names was difficult to discern from the handwriting):

*In Favor:*

- Residents of Mauro Meadows, Trinity Hill Drive, Durham, CT
  - Frederick Mackowitz, 9B Trinity Hill Drive
  - Mildred Lucas, 11A Trinity Hill Drive
  - Suzanne Neta, 5C Trinity Hill Drive
  - Ed Purcell, 5D Trinity Hill Drive
  - Don Croman, 17C Trinity Hill Drive
  - Seth Campisi, 11D Trinity Hill Drive
  - Lillian Honaker, 7D Trinity Hill Drive
  - Irene Karlson, 15B Trinity Hill Drive
  - Grace Stender, 15D Trinity Hill Drive
  - Rowland & Rosemarie King, 15A Trinity Hill Drive
  - Jane Gerard, 17D Trinity Hill Drive
  - Alyce Felt, 9D Trinity Hill Drive
  - Tom Keyes, Sr., 7C Trinity Hill Drive
  - Karen Dumas for Tom Keyes, 7C Trinity Hill Drive
  - Eleanor Gionfriddo, 9C Trinity Hill Drive
  - Vince Sutherland, 11C Trinity Hill Drive
  
- Marie M. Curtis, Curtis Studio, 216 Main Street – in favor of the project – noting support for the renovations of the athletic fields and adding that she was assured the lighting was directional and would not impact private homes nearby. She added that she believed the money was already appropriated and thinks the work should go forward as quickly as possible.
  
- William Herbst, John Monroe Van Vleck Professor of Astronomy, Wesleyan University – in support of the project – strongly encourages adoption of the type of lighting proposed – downward directed lights on 80-foot poles. He cites that these are used by Wesleyan for its athletic fields and that they limit the stray light (astronomers refer to this as light “pollution”) that goes upward, limiting people’s ability to see stars in the sky. Lights that create pollution waste money and resources. William Herbst also stated that the Van Vleck Observatory, on the campus of Wesleyan, is one of the premier observatories in the world and has been for many decades. Any expansion of night-sky lighting will gradually make observations more difficult to carry out. He urged the Commission to approve installation of the downward looking,

shielded lights from 80-foot poles, which puts the light on the playing fields, where it needs to be, and keeps the light out of the sky, where it is a nuisance and pollution.

Karen Cheyney, 60 Guire Road, addressed the Commission. She stated that her home is immediately behind the school and she reminded the Commission that the school is in a residential neighborhood. She stated that while she doesn't want to limit athletics at Coginchaug, the project will have a negative effect on her property value and enjoyment of her home. She hoped that there would be a way to move the project forward without having a negative effect on the neighborhood.

Karen Cheyney also stated that she had heard questions from people on why someone would buy a house next to a school. She said that when she moved to the neighborhood, she believed it was a day school without a football stadium. She referenced the regulations that had been cited by the representatives of the District. She noted that these were by no means inclusive. She also said that the conditions that had been drafted did not bind the Commission. She hoped that if the Commission approved the application, there would be conditions. She suggested that District #13 be required to maintain the property, including trash pickup and removal, which she suggested would increase with football games and home track meets. She asked if parking could be limited on Guire Road, as it is during Durham Fair weekend. She also inquired if there could be a requirement that the lighting be maintained with bulbs of the same brand and quality in the future. She asked for noise control with respect to impact on the neighborhood (including honking cars and crowds along with the actual public address system) and regular testing periodically. She stated that if bathrooms are not constructed, she would hope that adequate portable facilities would be provided for the anticipated crowds. She also asked that there be an adequate level of supervision and security before/during events, games, and any use of the property by other groups, including the woods and Guire Road.

Mike French, 8 Hubbard Street, Middlefield, addressed the Commission. He suggested that the facilities would be used by a number of people, not just athletes, as a means to keep in shape and relieve stress.

Donia Viola, 46 Partridge Lane, addressed the Commission. She thanked the Commission for giving a project of such magnitude serious attention. She asked if the Army Corps of Engineers needed to be notified. She expressed concern with light pollution if the lights are not properly shielded. She indicated that with respect to noise, she can hear band practices at her house a little more than a mile from the school. She suggested that compromise was in order. She also noted concern with the impact on traffic and the lack of bathroom facilities, considering the latter to be essential. With regard to the proposed lights, she worried that this would open a Pandora's box to anyone who wanted 80-foot light poles.

Kim Ryder, 259 Higganum Road, questioned whether or not the original referendum would be clear to anyone reading it that artificial turf was being considered. She thought

the vote was for facilities and fields and not specific material. She stated she was pleased that there was the possibility of private funding for the bathrooms and wondered if this offer could be secured in writing.

Bill Currilin indicated this would not be appropriate at this time.

Phil Harper, Mica Hill, addressed the Commission. He asked how the scoreboard proposed for the high school field would be any different from the scoreboards at all the facilities and fields throughout town. He asked if the Board would be giving a recommendation on the number of portalets required.

Rick Hanley, 111 Johnson Lane, addressed the Commission from three perspectives: that of a father of an athlete (track, soccer, other sports), a resident and taxpayer, and as president of FOCUS (Friends of Cuginchaug Unified Soccer). FOCUS represents about 75 boys and girls who play soccer at the high school level. There is full support for the project, including installation of lights at the proposed height for safe play. He noted that the town has always addressed safety, health, and the well-being of kids and could not imagine why the Commission would look at anything less than optimal lighting for the field. He said that with the endorsement of the astronomer from Wesleyan coupled with the safety record, there should be no choice but to go with the 80-foot poles. Finally, he stated that significant money was being spent by the District on professional fees to represent the application before the Commission. All of this money could be better spent on improvements as part of the overall project instead of being spent outside of the town on experts. He noted that enough time had passed since the original fund was established some four years ago to build a new track. He recommended that the project move forward.

Rick Hanley also stated that residents pay a fair tax rate for a very good school system. He commented on the philosophy of Roger Newton, who he said uniquely combined thrift with common sense. When he died three-and-a-half years ago, he asked that in lieu of flowers for his funeral, funds be given to the building committee for a new track. He suggested it would be his will to go forward with this project as well.

Ed Ruddy of Durham, a football player, addressed the Commission. He stated that the success of the youth football program started a few years ago has been so strong that Cuginchaug will not be able to participate in the coop program with Vinal Tech after this year. He would like to see a field for his team to use for practice and play. He also noted a number of friends who are on the track team, but have had no home track meets for years due to the condition of the track, injuries, etc. He stated that the noise that accompanies an athletic event is part of the environment and spirit of a high school providing support to its teams. He stated that competitive athletics in the school system helps to produce students who are well-rounded. Without proper athletic facilities, students can't train and play.

Hugo Boland, 4 South Woods Lane, addressed the Commission, expressing support for the proposed project, stating that “lights and the field go together.” He stated that going with artificial turf and lighting is the appropriate way to proceed. He cited experience with grass fields having to be resodded at least five times; artificial turf is better. He said that there are at least 50 boys entering Coginchaug next year who play football with no place to play the sport. He urged the Commission to approve the application so that work could commence.

Karen Kean addressed the Commission. She thanked the Commission for its efforts. She stated that she was insulted when someone tried to suggest that District #13 doesn't have a plan for bathrooms. There are presently portalets all over the campus as well as ample facilities at the high school. With regard to trash pickup, she again could not envision that the District doesn't have a plan. She urged the Commission to move forward quickly.

Jean Bingham, Park Place, addressed the Commission. She asked what the timeline was for the project, adding that the facilities were desperately needed.

Attorney John Corona addressed the Commission. He complimented the efforts of Attorney Tim Hollister, whom he described as one of the finest land-use attorneys in the state. He stated that the project has significant problems—parking, noise, traffic issues—and that there is a tendency on the part of the District to “gloss over” elemental parts of the plan. He noted that the Planning and Zoning Commission is a veteran group that views many applications and generally has a history of doing things right the first time (having seen some mistakes made and living with the resultant consequences). He pointed out that the Commission has frequently used the guideline, “it's not who you are but what you are applying for” that matters. When the Durham Fair Association was proposing an office at 68 Main Street, a number of Commissioners (Brian Ameche, Dave Foley, and Jan Melnik) went on record questioning such a practice in a residential neighborhood (the minutes of those meetings in 2001 were made part of the record).

With respect to the light, Attorney Corona stated that if anyone else was proposing a “few zillion watts of lighting on 80-foot poles” in a residential district, they'd be rejected by the Commission immediately. He expressed support for the football field, the track, and the tennis court. He stated that the original referendum question did not mention the light towers nor include a description of the synthetic field. He added that the referendum vote was close and that when the District took the matter to legislators for a decision, it was for fear that voters would not approve the referendum a second time in light of the economic climate.

Attorney Corona said that Attorney Hollister has stated that the proposed uses are not new uses; it is his opinion that this is a “totally different animal”—with new fields being built on land never used before, a lighted football field with seating for 1,000 people, etc. If approved, he suggested that there be a condition that the facilities be used for school athletic events only—and that the facility not be rented out or left in the hands of third parties. He also cautioned allowing the District to determine who would get to use the

facilities, suggesting that a special permit should be considered for all uses beyond school athletic programs.

Attorney Corona stated that other criteria in the regulations that should be considered includes buildings and structures being in harmony with and conforming to the appropriate and orderly development of the town. He said the Commission has rejected many applications for not complying with this criteria. Further, he expressed concern with the proposed 80-foot light poles, noting that there is nothing of this scale and intensity in the area. He noted concern with emergency vehicle access, particularly to the upper playing fields. He stated that the Commission is always diligent about looking at traffic issues. He suggested it was an insult to the Commission's intelligence to think that traffic won't increase with the addition of a facility with a 1,000-seat grandstand. The thought of using Strong School for overflow parking did not seem reasonable, given pedestrians would have to walk along a road with no lighting or sidewalks at 9 or 10 at night. He stated that to describe the parking plan as "fragmented and disorganized" was the kindest thing that could be said. Attorney Corona recommended that the applicant be asked to restrict the size of events and control ticket sales relevant to parking.

Referencing parking, Attorney Corona also stated that much of the parking along Pickett Lane requires people to back out into the road, not necessarily safe. He said that Bill Currin had talked about installed wooden posts at one point, but that this has not been mentioned recently.

In discussing the artificial turf field, Attorney Corona said that to install that but not bathrooms is irresponsible. He thought that with a thousand people on the site, many will not walk around the track, cross the parking lot, and go into the high school to use the facilities.

Attorney Corona urged the Commission to await the decision of the Department of Environmental Protection regarding the septic system. As far as permitting, he noted that there is currently a concession stand being operated at one of the baseball fields for which the Town Sanitarian has stated that there is no permit in place.

In discussing the scoreboard, Attorney Corona expressed his agreement with Frank DeFelice—that internally lit signs are not allowed. He pointed out that the little league field is "rimmed with the advertising of local businesses." He asked how the separation chamber would be maintained as part of the stormwater management plan, given that the District does not have a good track record of maintenance (citing the tennis courts and track as examples).

Attorney Corona expressed surprise that Rick Hanley had invoked the memory of Roger Newton; while he agreed that he was thrifty, he suggested that he wouldn't be someone who would support a synthetic field and 80-foot light poles. He suggested that the Commission visit Sheehan High School, where the track and football field are cut into "a bowl in the ground" with a steep, heavily treed hill behind it. The 80-foot light poles are

still visible. He did not think the balloon test gave the Commission an adequate feel of what the facility would look like.

Andy Meiman addressed the Commission, stating that as second lieutenant with the volunteer fire department, he could state that their emergency vehicles would not have any problem with accessing any portion of the site. The plans had been officially reviewed and no problems were identified. He expressed hope that the District would continue its policy of being a good neighbor in the community—and allowing community youth athletic programs to use the facilities. In terms of the volumes of traffic, he stated that he can't recall a day when attending a youth soccer game where there were "hundreds of people attending the game," that simply doesn't happen; there's generally just a smattering of parents. With youth football, the attendance would be likely to be higher, but not in the 1,000-person range.

Rick Hanley addressed the Commission. He stated that the auditorium at the high school seats about 850 people; with 100+ students on stage, as is the case for many theatrical and musical events, there are easily 1,000 people at the complex. He stated his belief that when the auditorium was built originally, it was wisely built at a size larger than would be reimbursed by the state simply to accommodate school and town functions and he asked if someone with institutional knowledge of that fact confirm it. With respect to Roger Newton, he asserted that Roger would have wanted the kids to have fun, but to have safety over anything else in a cost-effective manner. He encouraged the Planning and Zoning Commission to support the proposed application—that which provides for the highest level of safety for night play (80-foot poles with downlighting).

Bill Currlin thanked the Commission for its efforts. He concurred with the example provided about the auditorium, considered one of the most beautiful in all of Middlesex County. He stated that the activities being proposed all relate to school functions. He stated that the people of the towns of Durham and Middlefield "know how to park" (mentioning the traffic and parking related to the Durham Fair each year). People congregate for major events at the auditorium and come together to celebrate athletic victories. The Board of Education has retained expert consultants that he described as being worth every penny to develop a product (the proposed application) that has been carefully wrought to address every possible detail. This evaluation and proposal development has taken place very carefully over a number of years.

Sue Michael, Dunn Hill Road, addressed the Commission. She stated that many of the athletes present in the auditorium travel around the state to compete at events—and everyone at those events uses the facilities in the respective high schools or the portapotties provided. As a teacher at the high school, she sees the auditorium filled for a number of events, and with 1,000 people on site, there is no problem at all with the present facilities accommodating everyone. She stated that the facility would be managed in a reasonable way and that it would be a community resource. She stated that on behalf of the many Coginchaug track supporters and students in attendance, she hoped there would be a vote tonight and that the project could commence.

Tim Mack, Chaulker Road, addressed the Commission. He stated that he is a tax payer as well as the parent of a Falcons football player. He echoed the comments offered by Bill Currin and Sue Michael. Many of the events at the high school have “standing room only” with parking in every feasible area—yet everyone gets in and out safely. With respect to football, there are no more than half a dozen Friday night games per year. He stated that in addressing the points made by Attorney Corona, it was interesting that he (John Corona) doesn’t have to worry about the safety of his son, a student at Xavier. Considerable volunteer effort goes into operating and maintaining many of the athletic programs in the town. These people will continue to support programs, provide setup and clean up as has always been the case.

Donia Viola stated that in lieu of all the comments offered this evening, she hoped the Commission would carefully consider the application. She suggested that there be no action until the Department of Environmental Protection provides its input and there are answers regarding traffic.

Frank DeFelice stated that with regard to scoreboards, the Commission changed the regulations a year ago to prevent internally illuminated signs, not wanting a proliferation of them along Main Street. Any existing scoreboards that have been in place all along “predate zoning” and have every right to continue. But a newly installed scoreboard is different than an existing structure and, therefore, can’t be illuminated.

Richard Eriksen stated for the record that he has reviewed the exhibits and listened to the recordings of the August 19 and September 2 public hearings. He asked about the final decision regarding the ability of the District/Board of Education/administration to determine usage of the facilities versus what Attorney Steve Byrne had stated regarding the need for special permits.

Attorney Hollister responded that the District needs to be able to control its own facilities as part of their educational use. He noted that there was a disagreement between him and Attorney Byrne—and that Attorney Byrne’s suggestion that any nonschool use should require a permit was too broad. He stated that perhaps some uses might be appropriate to come back before the Planning and Zoning Commission, but to require all would be too broad. He stated that he did not believe the site plan approval should be conditioned to state that every use of any school facility by a nonschool group should require a permit from the Planning and Zoning Commission. There is a Board of Education that has purview over the District; the Planning and Zoning Commission has purview over land use.

As a means to move discussion and the approval process forward, Attorney Hollister stated that the District would take the issue of the scoreboard off the table. Because there are no particular details for the proposed scoreboard, this will be deferred with the agreement that the District will come back before the Commission at some future time when a scoreboard design is ready.

In terms of remarks made regarding the need for approval of the septic system from the Department of Environmental Protection/Department of Public Health, the Planning and Zoning Commission needs to first vote on the application before those groups or the Traffic Commission will review the plans.

Attorney Hollister encouraged that the Commission take action on the entire site plan—with the exception of the light poles (subject of the second hearing), noting that the issue of lights could be deferred until a special permit application could be made, pending initial approval of the text amendment by the Commission.

Attorney Hollister concurred with remarks that it would be far better to expend financial resources in construction of bathrooms and other facilities rather than spending money on paid consultants. However, when the District was challenged in its initial application, it became necessary to retain counsel.

In his closing remarks, Attorney Hollister stated his belief that the District is entitled to the presumption that it will be a good neighbor. The District would not hold a large athletic event without having proper parking management or necessary sanitary facilities available. The safety and comfort of patrons, guests, and students is uppermost in the minds of the District.

Frank DeFelice asked a question regarding the proposed lighting of the field—50 footcandles at field level—and how this would be achieved without the 80-foot poles. Attorney Hollister indicated that the District is not proposing or planning to install 35-foot light poles. Because of the action of the Zoning Board of Appeals, the District is left with no option but to pursue the separate text amendment. If the 80-foot poles are not permitted, then the entire plan would need to be redesigned with the possibility that the District might not be able to do lighting at all. He reiterated that higher poles will better protect abutting property from light glare as well as better ensure the safety of the athletes.

Stuart Keating commented that from his years of experience, men and women have been able to compete on fields, at track events, and on tennis courts without light (during the day).

Attorney Hollister stated again that the District is seeking a text amendment that would allow approval of 80-foot light poles by special permit; once passed, the District would immediately apply for them under the special permit application process. Meanwhile, the rest of the site plan application can be approved, leaving the issue of the light poles as a separate matter. The District has attempted to present an application that can secure an appeal-proof approval with the goal being to begin work this fall and enable completion of facilities for the spring.

Following discussion of how nonschool activities might be permitted or allowed, Attorney Hollister proposed as a condition for the Commission's consideration the following language:

At such time as the district makes a commitment or agreement with a nonschool group for use of the renovated activities, it will review with the Zoning Enforcement Officer or Planning and Zoning Commission whether or not regulatory approval is required.

Motion by Dave Foley, seconded by Gene Riotte, to close the public hearing at 10:59 p.m. of Regional School District #13, Pickett Lane, request for modification to approved site plan for athletic field. Motion carried unanimously.

### **PUBLIC HEARING**

2. Applicant: Tim Hollister, Esq.  
Property Location: Pickett Lane  
Request: Request for a Proposed Text Amendment to the Durham Zoning Regulations for New Section 12.12.05. "Maximum Height of Light Structures for Public Athletic Fields"

#### Present

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

Town Planner: Geoffrey Colegrove

Alternates: Mike Geremia, Stuart Keating

George Eames, Chairman, opened the public hearing and read the legal notice. Mike Geremia and Stuart Keating were present but not seated on the Commission.

The legal notice was read into the record.

Attorney Tim Hollister, representing Regional School District #13, addressed the Commission. He stated that when the language of the Zoning Regulations was crafted for Section 05.03.02, it was likely that light poles for athletic fields were probably not in mind. He stated that the applicant had demonstrated the value and improvement of using lights greater than 35 feet to diminish glare and light, particular for off-site locations, while, at the same time, producing safer conditions for athletes and improving the conduct of events. As a special exception matter, the Commission retains complete discretion and control in approving deviations.

To the potential concern of spot zoning, Attorney Hollister indicated that spot zoning would necessitate change of use; this language is speaking of expanding the height only.

The letter from William Herbst, John Monroe Van Vleck Professor of Astronomy, Wesleyan, was read into the record endorsing the plan for 80-foot light poles for a variety of reasons. In addition, a letter from Durham resident and Director of Athletics at Wesleyan, John Biddiscombe, pointed out the value of the lighting as well as artificial turf fields.

The lights at Wesleyan, installed by Musco, are in a far more densely populated area than that surrounding Coginchaug. The light fixtures are shielded cutoffs on 70- to 80-foot poles and there is no problem with glare in the residential neighborhood. The higher poles eliminate light pollution.

Ted Fravel of Musco Lighting addressed the Commission. Musco is the leading manufacturer of athletic lighting in the United States. Ted Fravel has also been affiliated with the Park and Recreation Department of Newington for nearly 25 years and is very familiar with the benefit of the higher light poles. He briefly explained that from 80-foot poles, light fixtures can be directed at an acute angle of 23 to 25 degrees. With shortening of the poles, the angle is progressively opened up (angling of the fixture, tilting it backwards), which then allows for much more light to spill into the surrounding areas along with creating glare for spectators and light going into the eyes of athletes. Musco has been designing and installing athletic field lighting for 30 years and is very familiar with the safety and glare concerns.

There was some discussion and disagreement between Attorney Hollister and Frank DeFelice regarding the difference between special exception and special permit as it relates to land use.

Commission members also discussed the proposed language with worry that it would enable 80-foot light poles at all publicly owned and operated athletic fields throughout town. There was the suggestion that, if considered, it would need to be dedicated in some way to a particular location so as to avoid that problem.

Geoffrey Colegrove indicated that to limit to just one facility brings the language closer to spot zoning, which should be avoided. He stated that if such poles were proposed for any other location, it would be by special permit and not site plan review. Therefore, the Commission would retain the authority to evaluate and consider; they could not be installed without the Commission's approval.

George Eames stated that the new high school in Middletown features light poles that do not exceed 60 feet. Ted Farvel explained that this is not a Musco system and at the high school level, their company would never certify drawings with 60-foot light poles; they are not as safe and not recommended. They would not be involved with such a project.

Attorney Hollister stated that if there were no worries about light spilling onto other properties, then the light poles could be lower.

To a query from Richard Eriksen about shielding the lights, Attorney Hollister stated that supplemental refitting along with hoods for the lighting fixtures are included in the site plans as well as in the proposed conditions of site plan approval.

Attorney John Corona stated that the proposed change to the Zoning Regulations is an “ad hoc change” and that nothing in the history of the town or the Zoning Regulations has been handled this way, in his opinion. He described the Commission’s negative reactions to previous tall structures (cell towers and the power lines). He also stated that it was his belief that it is inappropriate for the Commission to modify the regulations to suit the desire of one party to have lighting on one site. Approving the text amendment would open the door to there possibly being four light poles *per field* throughout town. However, if the 80-foot lights are safer, then they ought to be good for other property owners and facilitate uses on other sites, not just a school property.

Attorney Corona indicated that the Zoning Board of Appeals noted the “absence of similarly tall structures” and a proposal for a height that more than doubles what has always been allowed as being reasons for denying the variance request. If the Commission breaks the “height barrier,” it makes it easier for other people to obtain variances. Prohibiting the proposed increase in the light poles does not mean that the District cannot move forward with improving the track, tennis courts, and fields. Other towns have facilities without lighting.

Donia Viola stated that if the original proposal showed 60-foot lighting, why would 80 feet now be proposed. If Musco as a company does not do that, she suggested looking at other companies. She said that lighting could negatively affect property values and the neighbors’ ability to enjoy their properties. She hoped that lights would be out by 9 p.m. or 10 p.m.

Hugo Boland, 4 South Woods Lane, endorsed the plans for the Musco lighting and the 80-foot poles. This is the optimal solution from the best company in the business.

Rick Hanley, Johnson Lane, stated that with many families working later and later, having lighting would give the opportunity to people to watch their children participate in sports. He also noted that in a recent *Town Times* article, footcandles were discussed and the intensity of lighting is less than that from a full moon. In terms of the power lines, he said that they were initially going to be 197 feet, but were reduced to a level just over 100 feet; if 80 feet had been suggested for the power lines, everyone would have thought this to be a “wonderful thing.” He reiterated the professional and expert opinion of the lighting consultant as well as the comments from Professor Herbst at Wesleyan. He encouraged approval of the plan.

Karen Cheyney stated that there are a number of activities that will take advantage of using lights if they are available—including the idea that parents will be able to come to watch their kids using the fields. She asked that hours for lighting be established.

Frank DeFelice asked if any consideration had been given to classifying the school in a different zone from Farm-Residential. Attorney Hollister stated that public schools are permitted uses in Farm-Residential Zones. The goal is to strike a balance between the regulations to enable what the District is trying to achieve but without making the language so constrictive or narrow that it could only be applied to this project. The compromise was in saying “publicly owned athletic fields.” The Commission could substitute “fields at public schools” to make this even narrower—i.e., “lighting structures that are accessory to facilities at a public school.”

Geoffrey Colegrove stated he had never seen a special zone created just for schools; they are in Farm-Residential zones throughout the state.

Attorney Hollister noted that the District is willing to accept the narrowest limitation in the regulation that the Commission wants to approve.

Motion by Ralph Chase, seconded by Gene Riotte, to close the public hearing of Regional School District #13, proposed text amendment to Durham Zoning Regulations, Section 12.12.05, “Maximum Height of Light Structures, Public Athletic Fields.” Motion carried unanimously.

Motion by Gene Riotte, seconded by Ralph Chase, to reconvene the regular meeting at 11:40 p.m. Motion carried unanimously.

#### 9. Applications of Regional School District #13

The Planning and Zoning Commission agreed to schedule a special meeting for the subject two applications only on September 30, 2009, at the Durham Public Library, 7:00 p.m. Geoffrey Colegrove will confirm availability of the library for this special meeting.

#### 10. Miscellaneous

Frank DeFelice stated that he had received a call seeking inspection of Greenland Realty on a September 13, a Sunday. While he did not observe the banging sound or dumping of material, there was equipment parked outside the garage; all equipment is to be garaged.

Motion by Ralph Chase, seconded by Dave Foley, to adjourn the meeting at 11:47 p.m. Motion carried unanimously.

Respectfully submitted,

Jan Melnik  
9/23/2009