

TOWN OF DURHAM

Planning and Zoning Commission

P.O. Box 428

Durham, Connecticut 06422-0428

MINUTES OF FEBRUARY 4, 2015, MEETING

Present

Members: Alana Adams, Lisa Davenport, Frank DeFelice, Steve DeMartino, Richard Eriksen,
Dave Foley, Dan Melnik, Joe Pasquale

Alternates: Campbell Barrett, Norm Jason, Bonnie Ryder

Town Planner: Geoffrey Colegrove

Absent

Member: Chris Flanagan

The meeting was called to order by Richard Eriksen, Chairman, at 7:30 p.m. All members present were seated. Norm Jason was seated on the Commission in Chris Flanagan's place. Campbell Barrett and Bonnie Ryder (who arrived at 8:37 p.m.) were present, but unseated.

Motion by Frank DeFelice, seconded by Dave Foley, to approve the agenda of the February 4, 2015, meeting as submitted. Motion carried unanimously.

1. Public Session

No business.

2. John Szewczyk, A24 Review, Discontinuation of a Road, East Section, 1.053 miles, Blue Hills Road

Selectman John Szewczyk addressed the Commission. He stated that the discussion of this proposed road discontinuance would be held at the regular meeting of the Board of Selectmen on February 9 (subsequently cancelled because of weather) and would then go forward to a town meeting for a vote. He said that in 2001, then-First Selectman Ray Kalinowski brought several roads forward for possible discontinuance (including part of Harvey Road, Cream Pot Road, and others). While Planning and Zoning, under A24 review, expressed no reservations about the proposed discontinuance at that time, the matter was tabled during town meeting because of

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proximity to state forest in two instances (including the road presently being discussed). Back in 2001, the state, an abutter, had no objection to the discontinuation of this portion of the road.

Geoffrey Colegrove distributed maps of the area and John Szewczyk provided a map as well, pointing out the properties surrounding the section of the road proposed for discontinuation. The first portion of the road currently serves as a driveway for several properties (Cianciolas, Cortezos, and Vynaleks) with the Cortezos privately maintaining the drive for more than 25 years. The state forest can be accessed from a dirt road off Higganum Road.

When a road is discontinued, the property on which the town road crosses is divided down the center point and becomes a part of the adjoining property. The private property owners along that road would continue to have the right to use that road.

The process for discontinuing a town road includes the requirement for an A24 review by the Planning and Zoning Commission. The Commission's decision is not binding and the Board of Selectmen can take action after allowing the Commission 35 days for a considered opinion.

John Szewczyk initially stated that he was representing the Board of Selectmen, then later indicated that he had been appointed by First Selectman Laura Francis and not the Board of Selectmen, and then stated that he was representing the interests of residents (including the Cortezos, who were in attendance) in a non-official capacity.

Lisa Davenport expressed concern with the nature in which the discussion was being brought forth and an uneasiness in terms of John Szewczyk's characterization of exactly whom he was speaking for.

John Szewczyk stated that "constituents had come forward," that they (Cortezos) had maintained the driveway (town road) for 30 years, but that because of its official status, "anyone could go up the driveway and park their car near their home." By seeking discontinuation as a town road, no one other than the adjoining property owners could use the road. He had contacted Geoffrey Colegrove, who investigated the history.

Geoffrey Colegrove noted that Laura Francis was aware of the issue and that it is on the Commission's agenda for A24 review at the request of John Szewczyk.

Norm Jason asked if all owners of property along this road had been notified. Geoffrey Colegrove indicated that this notification process occurs at the time of town meeting on a proposed road discontinuance (legal notice to all abutters). If the Planning and Zoning Commission chooses to provide comments as part of this A24 review process, the Board of Selectmen would be required to read into the record at that town meeting the Commission's remarks (but, again, can make an independent decision regardless of the Commission's counsel).

Dave Foley noted concern with depriving the public of access to a state forest from this town road.

Joe Pasquale asked the process by which the ownership of the 'divided' town road would be recorded on individual deeds to establish proper ownership should the discontinuance be approved.

This has never been addressed in prior discontinuations of town roads. Some Commission members noted that amending the land records and perhaps even individual deeds might be appropriate or prudent—but at what cost and to whom?

Richard Eriksen stated that, at this point, the Commission does not have sufficient information to pass judgment on the A24 review.

To John Szewczyk's query about now going forward with this matter with the Board of Selectmen, he was reminded that the Commission has 35 days in which to consider the matter and render an opinion (if desired); therefore, if he were to schedule this matter on the Board of Selectmen's agenda, it should be far enough out on the calendar to accommodate the Commission's decision-making process.

Questions for verification/clarification include:

- What is the access for any landlocked parcels if the proposed portion of the road is discontinued?
- What is the vehicle/instrument that will allow continued access via this road for abutters if discontinuance is approved and the land on which the road is positioned reverts to privately owned land? What is recorded on the land records? Is there an easement? Right-of-way? How are property owners guaranteed that the land records will reflect continuous access if the road is discontinued?

John Szewczyk will notify all abutters that this matter will be discussed at the next Planning and Zoning Commission meeting (February 18).

Geoffrey Colegrove will provide information to all Commission members regarding the issue as considered by the Planning and Zoning Commission in August of 2001 and the Board of Selectmen's action at that time.

John Szewczyk will place this matter on the agenda of the next Board of Selectmen's meeting with a request that the Board designate by vote a representative from the Board of Selectmen to appear before the Planning and Zoning Commission to officially request the A24 review.

Motion by Frank DeFelice, seconded by Alana Adams, to table the A24 review (discontinuation of a road, east section, 1.053 miles, Blue Hills Road) for further investigation of questions Motion carried unanimously.

Motion by Frank DeFelice, seconded by Norm Jason, to recess the regular meeting for the public hearing, pet fair application, at 8:21 p.m. Motion carried unanimously.

PUBLIC HEARING

1. Applicant/Owner: Mark Paturzo/RSD 13/Town of Durham
Proposed Location: Allyn Brook Park
Proposed Activity: Pet Fair

Present

Members: Alana Adams, Lisa Davenport, Frank DeFelice, Steve DeMartino, Richard Eriksen, Dave Foley, Dan Melnik, Joe Pasquale

Alternates: Campbell Barrett, Norm Jason, Bonnie Ryder

Town Planner: Geoffrey Colegrove

Richard Eriksen, Chairman, opened the public hearing. Commissioners were seated; Norm Jason was seated on the Commission in Chris Flanagan's place. Campbell Barrett and Bonnie Ryder were present, but not seated.

The application was signed by both Laura Francis, First Selectman, and Dr. Kathy Veronesi, Superintendent of Schools.

At the suggestion of the Planning and Zoning Commission, Mark Paturzo stated that he was requesting a five-year permit on the application. The Commission could choose to approve the permit for fewer years if desired.

The annual pet fair will be held on Sunday, May 17, from 11 a.m. to 4 p.m. Activities will include adoption programs for dogs and cats, free pet photos, nail clippings, pet blessings, demonstrations, a rabies clinic, and microchipping of pets. Food will be available. The annual meeting with the public safety personnel will be held to ensure all measures are in place.

Richard Eriksen stated his preference to approve for just one year. Joe Pasquale, Campbell Barrett, and Dave Foley were in agreement.

Dan Melnik, Lisa Davenport, and Alana Adams expressed interest in more than one year, perhaps two or three.

Motion by Frank DeFelice, seconded by Dave Foley, to close the public hearing at 8:28 p.m. Motion carried unanimously.

Motion by Lisa Davenport, seconded by Frank DeFelice, to reconvene the regular meeting at 8:28 p.m. Motion carried unanimously.

3. Mark Paturzo/RSD 13/Town of Durham – Request for Permit for Pet Fair, Allyn Brook Park

Motion by Frank DeFelice, seconded by Dave Foley, to approve the application of Mark Paturzo/Regional School District #13/Town of Durham, Allyn Brook Park, annual pet fair on Sunday, May 17, with requirement for meeting/approval of public safety officials and with a two-year permit in place. Motion carried unanimously.

4. Final Review of Sign Regulations before Scheduling Public Hearing

Frank DeFelice picked up the review with Section 11.01.

Campbell Barrett recommended adding the following language to this paragraph:

While not requiring a formal application, nonpermanent signs are required to adhere to all applicable regulations herein.

The final language for this paragraph in its entirety would be:

No permanent sign, billboard, or outdoor advertising structure (hereinafter collectively referred to as "sign" or "signs") shall be established, constructed, reconstructed, enlarged, extended, moved, or structurally altered until an application for a sign permit has been approved by the Zoning Enforcement Officer in accordance with these regulations. While not requiring a formal application, nonpermanent signs are required to adhere to all applicable regulations herein. It is the purpose and intent of this Section to accommodate the installation of signs that are necessary for identification, direction, and commercial promotion. All signs shall conform to the following provisions in addition to any other conditions or limitations that may be imposed by the Commission in connection with the approval of a site development plan or special permit.

There was initial thought that the language regarding billboards/outdoor advertising could be removed; however, ultimately it was agreed to retain the language (they are prohibited; what exists today is nonconforming).

Bonnie Ryder arrived at 8:37 p.m., but was not seated.

In Section 11.01.01.03, it was agreed to separate interior from exterior signage:

11.01.01.03.

Exterior Signs

Animated or flashing signs, banners, or signs with any type of motion are prohibited, except for fabric flags of any sovereign nation, state, or municipality or as permitted in Section 11.01.02.09. Internally illuminated signs visible from a public highway are only allowed as set forth under Section 11.01.01.13 or Section 11.01.06.

Interior Signs

Internally illuminated signs visible from a public highway are permitted for installation on the interior of a structure only if they do not flash and are not animated.

11.01.02.07.

Geoffrey Colegrove will review requirements for gasoline signage.

In the meantime, the following is being considered for this section:

Signage for retail gasoline outlets shall comply with applicable state and/or federal regulations.

11.01.02.08.

There was significant discussion about this language. Joe Pasquale suggested two sections, one for nonpermanent signage and one that addresses flags and banners. His preference is to permit two sandwich boards per property, as is allowed now. He referenced concern for the cost of enforcement incurred by taxpayers if a more complicated method of signage were enacted. He itemized a number of enforcement-related actions in the last year alone relative to signage (including the former granite business, Little Rooster, Coastal Cleaners, the closet business, etc.). He added his opinion that it would be more confusing if signage were allowed on the basis of road frontage.

Geoffrey Colegrove stated that nonprofit organizations or municipal facilities are permitted signage under Section 11.01.03.06:

Nonprofit organizations or municipal facilities may display one (1) sign affixed to the building and one (1) permanent, freestanding sign, each of which shall not exceed fifteen (15) square feet. Nonpermanent signs for nonprofit or municipal uses advertising special events and/or promotions of a commercial or non-commercial nature are permitted, provided that such signs shall be non-illuminated and shall not exceed nine (9) square feet in area. Such signs shall not be erected more than thirty (30) days prior to an event and shall be removed within seven (7) days of the completion of the event. Each nonprofit or municipal premise is permitted one (1) nonpermanent sign, except for properties that have frontage in excess of one hundred (100) feet, in which case they are allowed an additional sign for each additional one hundred (100) feet of frontage or portion thereof.

Lisa Davenport stated that it was clear from sentiment expressed by businesses during the previous public hearing that sandwich boards are desired and essential for prosperity. She said that the subcommittee and Commission as a whole have been told repeatedly by businesses that signage is necessary. She referenced the dilemma of businesses and lack of growth in Connecticut, where recent reports point to closures outpacing startups. While sandwich boards are “not an elixir for survival,” they do offer businesses additional opportunities to reach consumers and drive-by traffic. She suggested crafting language that would allow one sandwich board (nonpermanent sign) *per business*.

Her own calculations that she characterized as unscientific suggest that there are about 66 signs along Main Street presently; Main Street has approximately 64 businesses. She noted that not all businesses would choose to have sandwich board signage. There are many instances of oversized nonpermanent signs on display (churches, school, Town Green). It does not seem fair that a business owner can't place a nine-square-foot sign on a property but the school can place numerous 32-square-foot signs. Yet, there is an irony that these businesses are sought to support the schools and various activities in their fundraising efforts.

Lisa Davenport added that as the main artery connecting Hartford to the shoreline towns, Durham is attractive to businesses with some showing interest in coming to Durham, but that the regulations are often found to be “too binding and restrictive” (resulting in establishment of businesses in Chester, Wallingford, and other nearby towns).

Dave Foley concurred with some of the points raised about enforcement difficulty, but agreed that there could be merit in considering signage on the basis of individual businesses instead of properties. The biggest potential problem is considering how 16 Main Street with very limited frontage and many businesses would be handled.

Frank DeFelice stated his belief that signage permitted every 100 feet was reasonable from the standpoint of driving Main Street.

Joe Pasquale asked that the number of commercial properties and businesses be calculated before coming to a final decision. He believed the number to be closer to 100 than 60. He also pointed out that there are two additional parcels of land to be developed on Main Street that could each have 20+ signs. If there is frontage along multiple roads, how might this impact the overall number? He believed one sign per business to potentially be excessive.

Alana Adams stated that, as the chair of the Economic Development Commission, a resident, a business owner on Main Street, and a member of the Planning and Zoning Commission, she had an obligation to do everything to support business in town and to encourage more businesses to come to town.

The Commission then discussed “what is a business?” What if an entity were to establish six LLCs—would six signs be permitted under the language being drafted?

Single-business parcels in existence today (that are allowed two signs presently) could be grandfathered.

Possible language to consider at the next meeting:

Each business within the Commercial and Industrial zones is permitted one (1) nonpermanent sign; this sign must not exceed nine (9) square feet each in area and must not be illuminated. A business is defined as a unit that is owned or leased.

Not more than two (2) nonpermanent signs are permitted on each property; these signs must not exceed nine (9) square feet each in area and must not be illuminated. Properties that have frontage in excess of three hundred (300) feet shall be permitted one (1) additional nonpermanent sign. Signs in excess of thirty-six (36) inches in height shall be located not less than eight (8) feet from the curb line of a public highway. Such signs located more than eight (8) feet from the curb line of a public highway shall not exceed forty-eight (48) inches in height.

11.01.02.09

Flags and banners are permitted, provided that they are attached to the building, the display does not exceed nine (9) feet in height and twelve (12) square feet in area, and there is only one (1) per unit owned or leased.

5. Payment of Bills

Motion by Dave Foley, seconded by Frank DeFelice, to approve payment of the following bills:

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- Absolute Advantage - \$401.66 (minutes of January 21, 2015)
- Absolute Advantage - \$225.00 (sign regulations)
- Midstate Planning - \$2,135.00 (January expenses)

Motion carried, 8-1, with all in favor with the exception of Dan Melnik (in abstention).

6. Approval of Minutes

Motion by Lisa Davenport, seconded by Alana Adams, to approve the minutes of the January 21, 2015, meeting as presented. Motion carried, 8-1, with all in favor with the exception of Norm Jason (in abstention).

7. Town Planner's Report

Geoffrey Colegrove stated that the former Merriam Manufacturing site is in the process of being sold; he has learned that the seller and a buyer have come to terms, pending approval of the DEEP. There remains a question about the nonconformity of the site given that the proposed use is unknown. With respect to abandonment of use, Dave Foley noted that it generally has to be proven that there was an intent to abandon a use. A sale would be to the benefit of the town (with approximately \$80K in back taxes that would be satisfied).

Geoffrey Colegrove advised that there is a potential buyer of the Lyman House on Route 147. The Historic District Commission is studying the possibility of establishing a secondary type of historic conservation easement; the potential buyer is willing to be placed under certain regulations and requirements.

The Board of Selectmen is in the final stages of negotiation on the solar array project for Brick Lane and Haddam Quarter Road.

Motion by Frank DeFelice, seconded by Dan Melnik, to adjourn the meeting at 10:15 p.m.
Motion carried unanimously.

Respectfully submitted,
Jan Melnik, Recording Secretary

2/12/2015