

# TOWN OF DURHAM

## **Planning and Zoning Commission**

P.O. Box 428

Durham, Connecticut 06422-0428

### **MINUTES OF FEBRUARY 18, 2015, MEETING**

#### Present

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

Alternates: Norm Jason, Bonnie Ryder

Town Planner: Geoffrey Colegrove

#### Absent

Member: Dave Foley

Alternate: Campbell Barrett

The meeting was called to order by Richard Eriksen, Chairman, at 7:30 p.m. All members present were seated. Bonnie Ryder was seated on the Commission in Dave Foley's place. Norm Jason was present, but unseated.

Motion by Frank DeFelice, seconded by Joe Pasquale, to approve the agenda of the February 18, 2015, meeting as submitted. Motion carried unanimously.

#### 1. Public Session

No business.

#### 2. Wimler Properties, LLC, One-lot Subdivision, 84 Stagecoach Road

Attorney John Corona addressed the Commission, explaining that the subject parcel of land is on the "Route 77" side of Stagecoach Road (belonging to June Porter, daughter of Charles Wimler). The state bought the development rights to the vast majority of the property (approx. 280 acres) some years ago and the house on this parcel is vacant, substantially derelict at this point. The request is to create a lot underneath the existing house, essentially shifting the previously drawn one-acre 'square' so that it accommodates a septic system/leaching field that had to be installed in 2010. Essentially, there would be a 'swap' in the defined easement/transferred development rights so that the state's interest remains whole and the house is accommodated on a one-acre lot comprising the existing well and septic. At the time of the transfer to the state, two-acre zoning had not been enacted.

A variance was secured from the Zoning Board of Appeals to accommodate the sub-two-acre parcel. The Planning and Zoning Commission cannot waive its own regulations. DEEP has approved a shift of the one-acre lot line. Bill Milardo provided a letter of approval as well.

Attorney Corona distributed a history of the site for the Commission's review. He said that Wimler LLC still owns title to the house; the state of Connecticut owns what is referred to as a "negative easement."

Ultimately, it is anticipated that the property with the house would be sold and the house rehabilitated.

Motion by Frank DeFelice, seconded by Dan Melnik, to approve the application of Wimler Properties, LLC, one-lot subdivision, 84 Stagecoach Road. Motion carried unanimously.

### 3. Review of Sign Regulations

Geoffrey Colegrove reported on his analysis—that there are 14 existing single businesses on Main Street/Route 17 that would lose the ability to have two freestanding, nonpermanent signs if the new sign regulations were altered to permit one freestanding, nonpermanent sign for every business. Additionally, there are three other nonconforming businesses that would also need to comply: Durham Market, the optical business in the former Marshall's Variety Store location, and Artie's Bar and Grill (the former "Yellow Dog"/Red's Mill Cafe).

Geoffrey Colegrove distributed language for gasoline signage requirements. The majority of the stipulations relate to the size of the numbers for the price of gasoline. Possible language to consider:

#### 11.01.02.07.

Retail gasoline outlets may have an additional fifteen (15) square feet of sign area for advertising fuel price. Such additional sign area may be affixed to a building, canopy or free standing sign. Signage for retail gasoline outlets shall comply with applicable state and/or federal regulations.

The Commission may also opt to simply state the following instead:

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

#### 11.01.02.08.

There was extensive discussion about the language for nonpermanent signs for businesses within the Commercial and Industrial zones.

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Richard Eriksen stated that businesses can't be discriminated against—and by enacting "one sign per business," every business is treated equitably. However, this doesn't address properties on which multiple businesses exist (at the south end of town, for instance) with minimal frontage.

Joe Pasquale indicated that a third option would be simply maintaining the regulations as they currently exist:

Two temporary signs are permitted provided that they do not exceed nine (9') square feet in area and are non-illuminated. Signs in excess of thirty-six (36") inches in height shall be located not less than eight (8') feet from the curbline of the public highway.

By his calculations, if every commercial/industrial property that could have an operating business did, in fact, have a business and all took advantage of signage, what would be about 100 signs under today's regulations could expand to as much as 160 or even more than 200 signs (he quickly reviewed each of the sites). Richard Eriksen stated that not every business would necessarily opt to have a freestanding, nonpermanent sign. Joe Pasquale implored the Commission to consider the longer-range impact of such a decision and seriously think about the potential, not just the situation as it exists today.

Lisa Davenport stated that businesses have repeatedly represented their desire to have the ability for increased signage, that the regulations are not fair and that they cannot adequately promote their businesses.

Chris Flanagan suggested that the nonpermanent, freestanding "sandwich board" sign might be something that could be permitted at the doorway/sidewalk of every business instead of along the road. In this way, merchants would be likely to bring in their nonpermanent signage at night (which is impossible to enforce when signage is out by the road). Several Commission members noted that this would defeat the purpose: Catching drive-by traffic and reinforcing, over time, the availability of some item or service (Norm Jason cited a situation in which the presence of a nonpermanent, freestanding sign "over time" planted the impulse for a subsequent sale).

Commission members then discussed how this could be tempered for properties for which there isn't adequate frontage.

Richard Eriksen suggested researching what other towns have done in their regulations to address such a quandary (and not reinvent the wheel).

Alana Adams concurred with the suggestion of allowing one sign per business—it is equitable. Spacing needs to be determined for placement of the signs. She noted that she does not use a sandwich board for her business—giving, instead, this opportunity to her tenants to use.

Chris Flanagan asserted that no business ever claimed it failed because of a lack of sandwich boards.

Steve DeMartino stated that the struggle surrounds density and placement of signage.

After much discussion as to "how far apart" signage should be allowed, it was agreed by most to propose:

Each business within the commercial/industrial zone shall be permitted one (1) nonpermanent sign; this sign shall not exceed nine (9) square feet in area and shall not be illuminated. **Such signs shall not be spaced less than twenty-five (25) feet apart as calculated at the property's frontage.** 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. For the purpose of this section, a business is defined as a unit that is owned or leased.

Bonnie Ryder noted that with the significant amount of stop-and-go traffic on Main Street, people would have the ability to read signs.

Joe Pasquale reflected on the initial thread of discussion when changes to the language were first proposed—where if a property had 300 feet of frontage, it might have been allowed to have three signs; if there are four businesses, now four signs would be permitted. He suggested that this impact needs to be carefully considered.

Frank DeFelice agreed with the obligation the Commission has to provide fair, equitable support to businesses—i.e., one sign per business. Geoffrey Colegrove believed 25 feet between signs to be reasonable.

If the spacing is to be 25 feet between signs, on a property with 100 feet of frontage, this would mean five signs (at 0 feet [the end], then in 25-foot increments at the 25-foot, 50-foot, 75-foot, and 100-foot [other end] marks), unless something is specifically crafted that precludes using both of the endpoints.

#### 11.01.02.09.

The Commission discussed banners and height restrictions (i.e., whether or not someone should be able to have a one-foot by 12-foot banner—the maximum of twelve square feet—suspended along the street-facing, gable end of a building or if a second-story business could have a banner at the second-story level).

As proposed, the language reads:

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.

#### 11.01.03.07.

The Commission discussed nonpermanent signage for nonprofit, athletic organizations and the possible concern about regulating off-premises, commercial signage (the issue being ownership of the property).

As it stands now (this can always be removed following the public hearing), the language reads:

Nonpermanent signs that sponsor nonprofit athletic organizations are permitted to be placed on fencing used to contain the athletic activity and shall be located on property owned by Regional School District #13 or the Town of Durham; such signs shall not exceed a height of seven (7) feet except by special permit. Signs for such purposes in other locations are allowed by special permit only. In no event shall any sign exceed a height of 15 feet or project above the height of the fence to which it is affixed, whichever is less.

Joe Pasquale recommended that this portion of the proposed language be provided to Attorney Steve Byrne for review.

#### 4. Payment of Bills

Motion by Bonnie Ryder, seconded by Lisa Davenport, to approve payment of the following bills:

- Absolute Advantage - \$385.93 (minutes of February 4, 2015)
- Absolute Advantage - \$225.00 (sign regulations)
- Atty. Steve Byrne - \$645.00 (ongoing, Stagecoach/Aberdeen)

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

#### 5. Approval of Minutes

Motion by Dan Melnik, seconded by Frank DeFelice, to approve the minutes of the February 4, 2015, meeting as presented. Motion carried, 7-2, with all in favor with the exception of Bonnie Ryder and Chris Flanagan (in abstention).

#### 6. Town Planner's Report

Geoffrey Colegrove advised that the Board of Selectmen did not meet to discuss the discontinuance of the portion of the road off Blue Hills Road as previously discussed. Selectman John Szewczyk will be sending a notice to abutters.

Chris Flanagan asked for clarification of the language in Attorney Steve Byrne's letter regarding ownership of the road; Geoffrey Colegrove explained that this language referred to ownership by usage versus by deed.

With respect to the Aberdeen project, the matter is expected to be resolved by the end of February; this will result in back taxes of approx. \$20K being paid to the town.

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7. Miscellaneous

Joe Pasquale asked Geoffrey Colegrove to investigate Royal Transportation in Pat DiNatale's Route 68 rental units. Testimony had previously been presented that no vehicles would be on the exterior of the property, but that doesn't appear to be the case.

Geoffrey Colegrove advised that Torrison is planning an expansion of their building with plans also to relocate most of the construction equipment off site (the leased space behind Little Rooster). Torrison will return to the Commission for a modification to the site plan.

Motion by Alana Adams, seconded by Frank DeFelice, to adjourn the meeting at 10:08 p.m.

Motion carried unanimously.

Respectfully submitted,  
Jan Melnik, Recording Secretary

2/25/2015