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TOWN OF DURHAM

Planning and Zoning Commission
P.O. Box 428
Durham, Connecticut 06422-0428

MINUTES OF APRIL 1, 2015, MEETING

Present

Members: Alana Adams, Lisa Davenport, Steve DeMartino, Richard Eriksen, Chris Flanagan, Dan Melnik, Joe Pasquale
Alternates: Campbell Barrett, Norm Jason, Bonnie Ryder
Town Planner: Geoffrey Colegrove

Absent

Members: Frank DeFelice, Dave Foley

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

Motion by Lisa Davenport, seconded by Dan Melnik, to approve the agenda of the April 1, 2015, meeting as submitted. Motion carried unanimously.

1. Public Session

No business.

2. Durham Manufacturing Company, Site Plan Review, Reconstruction and Expansion of Existing Parking Lot, 199 Main Street

Attorney John Corona addressed the Commission. He described the existing parking at the subject property and stated that it needs to be expanded and made more functional. The entire parcel was merged previously; there are 15 spaces on the 199 Main Street portion of the site currently. One of the considerations is to have two-way traffic using the existing entrance. The dumpster will not be located on the site. A rendering was presented detailing up to 29 spaces. A heavy row of trees will be added for buffering at the recommendation of a landscape architect.

Additional ornamental trees will be added nearer to Main Street to augment a hedgerow at the site to help obscure the view coming north on Main Street.

Bituminous paving is proposed and parking spaces will be marked. There will be no curb stops to interfere with snow plowing.

Attorney Corona stated that no lighting was proposed as part of the parking lot expansion. There is plenty of overflow lighting from adjacent sites.

Joe Pasquale asked about the site coverage. Attorney Corona replied that the entire site is 18 acres and while the actual calculation had not been done (there is not a comprehensive survey of the entire site following several changes to combine properties), he had conferred with Pat Benjamin, the project's engineer, who indicated that even with the parking lot expansion, the overall lot coverage was nowhere close to the limitation.

Discussion ensued regarding whether or not coverage was based on only the buildings or, as Joe Pasquale pointed out, including impervious surfaces (02.12.04). The table for the zone was discussed (commercial/industrial versus Main Street residential).

Richard Eriksen asked that the actual calculation of coverage for the entire site be furnished. Attorney Corona stated that this would be very difficult and expensive to undertake (requiring an entire survey of the site). Richard Eriksen asked that an "intelligent estimate/calculation" be provided for the Commission by the engineer for the project.

The "Thomasson amendment" was discussed briefly; this relates to use for a limited number of structures on Main Street used as professional offices. For the subject site, the building was originally a residential structure/nonconforming use surrounded by a parking lot in a residential zone.

Chris Flanagan concurred with Joe Pasquale regarding the request for a "reasonably informed estimate" of lot coverage by the project engineer. Attorney Corona will obtain this information for the Commission.

3. <u>8-24 Review, Discontinuation of a Road, East Section, 1.053 miles, Blue Hills Road</u>

Selectman John Szewczyk addressed the Commission, referencing his initial discussion on the matter about six weeks earlier before the Commission. He said that, under town charter and representing First Selectman Laura Francis as her designee, he was making an administrative request of the Planning and Zoning Commission. He stated that the Board of Selectmen had voted unanimously to require an 8-24 review of this proposed road discontinuation from the Planning and Zoning Commission; this would be a nonbinding review.

John Szewczyk stated that a property owner in this neighborhood had come forward, interested in pursuing road discontinuation for this portion of the road as a part of estate-planning purposes. He characterized it as a town road that is technically there but that the town never built, adding that it is a road "that has never been there" and is not present on any maps since 1934. Should the Board of Selectmen decide to go forward with the proposed discontinuance, it would go before town meeting and landowners would be properly noticed.

Joe Pasquale asked what discontinuation would do as far as access. John Szewczyk stated that no one who currently has access would ever lose access; however, formal discontinuation as a town road would prohibit private citizens who do not live on that road from going on the property. At present, anyone can go up the private driveway, use four-wheelers, and even sit in the front yard of some of the landowners.

John Szewczyk stated that this section of road had been proposed for discontinuance as far back as under First Selectman Ray Kalinowski's administration and even discussed at Planning and Zoning, but it was tabled at that time.

Geoffrey Colegrove indicated he had received several calls regarding power lines. There is apparently a pole located within the proposed discontinuance (right-of-way); it is possible that property owners would have to grant an easement where the pole and lines are for maintenance purposes. This exceeds the purview of the Planning and Zoning Commission, but would need to be addressed before town meeting in order to satisfy neighbors' concerns.

If discontinued, the road would be "divided" along the center point and ownership would revert to the adjacent owners.

Joe Pasquale asked what maps had been used to determine the road's presence. Geoffrey Colegrove indicated that the town property maps date to 1985 with topographic maps developed at about the same time (town maps overlay the topo maps at a 100 scale). There was a question about abandoning something that never existed in the first place. Joe Pasquale stated that he previously had lived out in that area and had been on those roads multiple times—that it is not visible where this road might ever have existed.

Richard Vynalek addressed the Commission; his family has owned property on Blue Hills Road since 1890. He stated that this section of Old Blue Hills Road always traversed that area and came out onto Blue Hills Road near where the gates/entrance to his family farm is.

Geoffrey Colegrove noted that there have been discussions about this section of road dating back to Foster Mather's days as First Selectman, then carried on in First Selectman Kalinowski's era.

Richard Eriksen clarified that the Planning and Zoning Commission conducts an 8-24 review that is purely advisory and does not provide approval or disapproval of the proposal. Issues brought up in this meeting are reflected in the minutes.

Richard Parmelee stated that, at one time in the past when roads were being proposed for discontinuance, there was a policy of no-growth for Durham. It was determined that such matters would be reviewed and voted on in town meeting (he cited the issue of David Road).

Motion by Lisa Davenport, seconded by Norm Jason, to provide the Board of Selectmen with the fact that the Planning and Zoning Commission conducted an 8-24 review of the discontinuation of a road, east section, 1.053 miles, Blue Hills Road. Motion carried unanimously.

Motion by Lisa Davenport, seconded by Dan Melnik, to recess the regular meeting at 8:04 p.m. for the public hearing. Motion carried unanimously.

PUBLIC HEARING

1. Applicant: Planning & Zoning Commission
   Proposed: Comprehensive Review of Section 11: Signs and Outdoor Advertising Structures of the Durham Zoning Regulations

Present

Members: Alana Adams, Lisa Davenport, Steve DeMartino, Richard Eriksen, Chris Flanagan, 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; Campbell Barrett was seated on the Commission in Frank DeFelice's place. Norm Jason was seated on the Commission in Dave Foley's place. Bonnie Ryder was present, but unseated.

Geoffrey Colegrove read the legal notice into the record.

Richard Eriksen stated that the Commission reviews its regulations and the Plan of Conservation and Development every ten years to reflect currency and "to catch up with the times." The section of the regulations under discussion at present are the sign regulations, which have been reviewed, studied, and discussed extensively over the past two to three years by a subcommittee and the Commission as a whole. Input from the public as well as business owners in the community had been sought in crafting changes. Copies of the proposed language were distributed.

Richard Eriksen stated that the Commission would not be commenting this evening on all of the points raised by members of the community—rather, it would be taking note of all points raised and discussing as a Commission in the weeks ahead.

Katie Forline, New Haven Road, addressed the Commission. She asked if the Commission had taken into consideration setting a size limitation for the frame of a nonpermanent sign, noting that the regulations do not appear to take this into account (i.e., the frame/border of a nonpermanent sign). She stated that this might have been an oversight.

Jim McLaughlin stated that if there is a 36-inch restriction in the height of a sign eight feet from the curb line, going any taller in height could present a traffic hazard. He noted that this was the intention of the height restriction.

Ona McLaughlin, a member of the Historic District Commission, requested that any signs erected within the Historic District be required to go before the Historic District Commission for review/approval. She added that she did not know if this would be appropriate to include in the regulations.

Brenda Eddy, 58 Main Street, thanked the Commission for its work in attempting to craft language that is fair to businesses. She noted the need for freestanding signs, as many businesses along Main Street are not situated directly along the roadway, but set back.

Brenda Eddy also added that freestanding signs are essential to business—she changes the content on her sign one or two times per month and often hears, "I didn't know you sold 'x'…" She endorsed the proposal that the Commission made with respect to sandwich board signs.

Katie Hughes, Higganum Road, spoke as a business owner in town. She stated that having a nonpermanent sign is a huge boon to businesses. She gets a tremendous amount of feedback about hers for Perk on Main.

Janet Morganti, 360 Main Street, spoke as a relatively new business owner—two years. She said that sandwich boards have been invaluable to her business. She said people report nearly every day driving by her location, noting the sandwich board, then turning around and coming back and into her store. Without a sandwich board sign, people "wouldn't know I'm here." She said that those opposed to sandwich board signs, wanting a "quaint little historic district," need to consider that if businesses are to survive in town, the public must know they are there. She added that the Commission might wish to look at requiring something uniform in terms of the nonpermanent signs if appearance is a concern.

Tom Stefan addressed the Commission. As the owner of a small business in his home, he would ideally like to consider space on Main Street; however, if he can't let people know what he is offering and can't effectively advertise/sell his product, it will be difficult to stay in business. He added that it would be a strong consideration not to locate in Durham if he couldn't put a sign out in front of the business. While appreciating the agricultural heritage and rural nature of the town, he stated that there needs to be support for the business community. He endorsed consideration of a uniform sign discussion—that could help avoid the cluttered look and perhaps result in the use of a sign that is of a unique design that all could use.

Geoffrey Colegrove noted that design characteristics for signs had been discussed before with the Commission's counsel and that this initiative would be something better enacted by the business community (perhaps including the Economic Development Commission). The Commission can regulate the size of signage (including size of lettering) and location, but that aesthetics and content would not be part of the zoning regulations.

Cheryl Salva, owner of the Core Club, expressed agreement with comments presented from others, noting that nonpermanent signs are essential in supporting local business. She pointed out that most of the local businesses provide support to the schools and to athletic teams—without sandwich boards to raise visibility, businesses wouldn't be as profitable and couldn't give back as much to the community. She cited the origin of sandwich boards back in the 1200s as ads in small cafes.

George Eames, Haddam Quarter Road, addressed the Commission, stating that he has a business in Wallingford and business interests in Durham. He noted that there are lots of small businesses in Wallingford and Durham, but along Main Street in Wallingford, there is not a single sandwich board in use. He suggested that if one business uses such a sign, then all feel a need to have them

to be competitive… leading to a situation possibly out of control that causes towns to err on the conservative side, prohibiting them altogether.

George Eames suggested that the definitions need to be carefully reviewed, from the standpoint that "nonpermanent signs" (anything that is not permanent) invites a free-for-all and doesn't stand up to scrutiny. He suggested consideration of perhaps a dawn-to-dusk requirement for nonpermanent signs, since they can't be illuminated; if the sign stays up indefinitely, it becomes "part of the scenery," a de facto permanent sign.

Jim McLaughlin indicated that he had a problem as well with "nonpermanent signs"—stating the connotation is an indication of time whereas the Commission's intent has more to do with the sign being attached (to the ground or building) that makes it permanent. Sandwich board signs that are always on display lose their efficacy, in his opinion. He also discussed 16 Main Street where it is impossible for every business there to have a sandwich board (the limitation of a minimum of 25 feet between signs along frontage). It was noted that property owners are responsible for enforcing signage regulations.

Jim McLaughlin asked about fabric flags and banners—would these be considered permanent? Geoffrey Colegrove stated that these are included in the overall calculation for total signage allowed based on frontage.

Katie Hughes stated a nonpermanent sign (a sandwich board) has content that is fluid and interchangeable. Businesses find it effective to change the content. She said that the signage at 16 Main Street, a unique site, appears effective for a site with more than 10 businesses. She added that this particular site should not be a "deal breaker" in terms of approval language that would allow most businesses to benefit under the proposed nonpermanent sign requirements.

Lisa Davenport indicated that several business sites do not have enough frontage for individual signs and, under the current language, even lots with extensive frontage couldn't have more than two signs. Therefore, the compromise was putting in the 25-foot separating distance between signs.

Richard Parmelee expressed endorsement for signs promoting businesses (and businesses "making the world go around," without which there wouldn't be tax support for state and federal government). He asked if numbers on houses or businesses are taken into account as part of sign calculations (they are not).

Tammy Gullo, owner of Wild Wisteria, stated that she hears from people nearly every day, both from Durham and out of town, that without her sandwich board sign, they would not know of her business location. These signs "absolutely, definitely help business." She also pointed out that Wallingford's Main Street area is a "small, cute little area with parking and sidewalks" and located where traffic is driving very slowly because of traffic lights. Durham is entirely different: its Main Street is widely spread out across multiple miles without common parking/walking distance between all businesses.

Attorney John Corona addressed the Commission. He stated that in Section 11.01, the language about "no permanent sign, billboard, or outside structure" is not included in the definition of a sign. In Section 11.01.01.03, he stated that a sign by definition is outside of a window and not

something inside a building… and that no internally illuminated signs could be visible from inside a structure—adding that "there is no such thing."

Richard Eriksen stated that this language was intended to prevent flashing interior signs. John Corona stated that this language did not provide appropriate clarification.

John Corona added that early on in the Commission's discussions, he had provided draft language for consideration to address the issue of signage at the Durham Fair and that there had been a great deal of discussion over that language. In the course of the last draft of the proposed language, that content "had disappeared." This would mean a "return to old ways"—relying on selective enforcement as to whether or not something is a sign at the Durham Fair. He noted that the Commission apparently decided not to deal with this difficult issue. He also pointed out that the Commission had apparently decided to do the same thing with advertising signs on athletic fences—there was language incorporated in previous drafts, but now omitted from this current version—reflecting a stance of "ignoring" the issue.

Richard Eriksen stated that all situations can't be definitively addressed by the regulations. Further, the Commission did not try to craft regulations so that every sign requires a permit.

John Corona stated that there are literally hundreds if not thousands of signs during the Durham Fair (from the Fair's own signage to vendors)—and that there is zero protection for the Fair and for the advertising signs on athletic fields. These signs are effectively "illegal" under both the current regulations and the proposed regulations with people hoping for selective enforcement.

Roger Kleeman asked about the matter of signage on trucks, stating that this hadn't been included in the regulations. A sign on a truck can act like a billboard in a parking lot (i.e., box trucks parked in front of a commercial or retail business with hours of operation, etc.). Some of the new signage detailing on vehicles covers the entire vehicle with advertising messages/ content.

Directional signage was also discussed. Roger Kleeman suggested that state requirements be consulted—querying the change from ten signs to three directional signs (versus using the requirements of the Uniform Traffic Control manual). He mentioned signage appearing in industrial parks.

Brenda Eddy asked about the signage used at gas stations—i.e., the 'wrap-arounds' on poles and at the bollards of gas stations. Are these nonpermanent signs? How are they calculated?

Richard Eriksen pointed out that the Commission does not have a full-tine Zoning Enforcement Officer. Basically, twice a month there is a Commission meeting at which the public can bring forward issues of concern or complaints that are then investigated.

To a query about the regulations applying to political signs, these are addressed in Section 11.01.03.04.

George Eames asked if signs appearing on the state's property/right-of-way are regulated. Richard Eriksen responded that the state of Connecticut has regulations concerning rights-of-way. Basically, the state's stance is that unless there is a line-of-sight or safety issue, the state

"looks the other way." He added that the Commission addresses in its language the distance from the curb, height, etc., to address concerns related to line-of-sight. For signs to be legitimately posted on state property, there needs to be a lease in place with the state of Connecticut. The state does not differentiate between permanent or nonpermanent signs. As far as the town is concerned, all permanent signs must be on an applicant's own property.

The state is also content to have local resources regulate sandwich board signs and control their proliferation. The state has the right to remove sandwich board signs in the state's right-of-way—but does not have the resources to monitor this on a regular basis unless there is a reported safety issue.

Ona McLaughlin clarified that the Historic District Commission exists as an architectural review board to preserve architecture in the Historic District—and "not to keep the town quaint." The Historic District Commission has control over any changes to the exterior of any buildings within the district and, Ona McLaughlin noted, over structures that include permanent signs, fences, and garages. But the Historic District Commission has never had an application for a nonpermanent sign; that falls under the purview of the Planning and Zoning Commission.

Motion by Lisa Davenport, seconded by Dan Melnik, to close the public hearing, comprehensive revision of Section 11: Signs and Outdoor Advertising Structures, of the Durham Zoning Regulations. Motion carried unanimously.

Motion by Lisa Davenport, seconded by Dan Melnik, to reconvene the regular meeting at 9:06 p.m. Motion carried unanimously.

Discussion of signage was deferred to the April 15 meeting to allow Commissioners to review comments from the public hearing.

4. Payment of Bills

Motion by Alana Adams, seconded by Norm Jason, to approve payment of the following bills:

- Absolute Advantage - $480.31 (minutes of March 18, 2015)
- Midstate Planning - $2,940.00 (new expenses)

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

5. Approval of Minutes

Motion by Lisa Davenport, seconded by Dan Melnik, to approve the minutes of the March 18, 2015, meeting as presented. Motion carried, 5-4, with all in favor with the exception of Alana Adams, Lisa Davenport, Norm Jason, and Dan Melnik (in abstention).

6. Zoning Enforcement Officer's Report

Geoffrey Colegrove stated that signs are now becoming visible with the snow melting. There was a situation of a sign on the town green for the Lyon & Billard Lumber Company home show/expo. Because a granite provisioner on Ozick Drive "wasn't allowed to be part of the home show (competing with Lyon & Billard)," signs began appearing on the green and elsewhere for

the granite company. These were removed by the Public Works Department and returned to the company on Ozick Drive; the former practice of the Public Works Department was to bring the signs back to the town garage.

Geoffrey Colegrove stated that the Aberdeen/Stagecoach matter was proceeding. United Bank is merging with Rockville Bank (which holds the note on the project). There has been some difficulty in getting information from the current owner (Briggs). Amortization has been discussed for the septic system (individual versus collective).

Motion by Lisa Davenport, seconded by Norm Jason, to adjourn the meeting at 9:20 p.m. Motion carried unanimously.

Respectfully submitted,

Jan Melnik, Recording Secretary

4/8/2015