

Planning & Zoning Commission
7:30 p.m., Wednesday, October 7, 2015
Meeting Room, Durham Public Library

Meeting Minutes

1. Call to order

Lisa Davenport called the meeting to order at 7:30 p.m.

2. Roll Call

In attendance: Alana Adams, Campbell Barrett, Lisa Davenport, Chris Flanagan, Dave Foley, Norm Jason, Joseph Pasquale, Bonnie Ryder

Absent: Frank DeFelice, Steve DeMartino, Richard Eriksen, Daniel Melnik

Others in attendance: Geoff Colegrove, Mike Cortezzo, Tray Racki, Dennis Ceneviva, Esq., Michelle Carlson, P.E., David Goduti, Mike Batista.

3. Seating of Alternates

Campbell Barrett was seated for Steve DeMartino, Norm Jason was seated for Frank DeFelice, Bonnie Ryder was seated for Richard Eriksen.

4. Amendments to Agenda

5. Approval of Agenda

MOTION BY DAVE FOLEY, SECONDED BY ALANA ADAMS, TO ADD THE FOLLOWING ITEM TO THE AGENDA, AND APPROVE AS AMENDED.

9. A. DENNIS CENEVIVA/GRACEFUL BEE REALTY, LLC. PROPERTY LOCATION: MAIN STREET
PROPOSED ACTIVITY: AMEND THE FOLLOWING SECTIONS OF THE DURHAM ZONING REGULATIONS: SECTION 02. TO INCLUDE A DEFINITION OF COFFEEHOUSE; AMEND SECTION 06.01 TO PERMIT COFFEEHOUSES WITH DRIVE THRU WINDOW SERVICE AND TO ADD A NEW SECTION 06.13 WHICH PROVIDES FOR EIGHT CRITERIA A COFFEE HOUSE WITH DRIVE THRU WINDOW SERVICES MUST MEET. ALL AYE

6. Public Session

George Eames IV, Haddam Quarter Road, referenced agenda item #10 and asked the commission what the purpose was. Geoff Colegrove stated that the commission is exploring options and is not proposing any new regulation at this time. They would like to assess what residents on Main Street feel might be appropriate, if any. The commission is not pre-determining and have been trying to get a presentation together to get people to start thinking about what they might accept or not accept. They have received requests from some residents on Main Street with limited commercial uses. Rather than present alternatives the commission would like input first. Residents in the MR zone will be invited to attend an informal public hearing which will be publically noticed.

7. Mike Cortezzo, Request for (2) 90 day extensions to file Mylar's, Higganum Road Subdivision

In a letter dated September 14, 2015, Mike Cortezzo requested two 90 day extensions to file Mylars on Higganum Road subdivision due to the fact that he is still living out of state trying to sell their existing property. Geoff Colegrove noted that this is allowed by statute.

MOTION BY DAVE FOLEY, SECONDED BY JOE PASQUALE, TO APPROVE MIKE CORTEZZO'S REQUEST FOR (2) 90 DAY EXTENSIONS TO FILE MYLARS FOR HIGGANUM ROAD SUBDIVISION.
ALL AYE

8. T. Racki, Torrison Stone & Garden, Site Plan Review, 422 Main Street

Tray Racki representing the Rockfall Company was present. He advised the commission that he filed a review for Torrison Stone and Garden, the former Ken Marino building, to expand their showroom site at 422 Main Street with a 24 x 24 addition off the south side with an additional 11 x 25 addition. It will encompass an employee area, conference room, and the 24 x 24 structure that will be a story and a half which will be the new showroom area that will connect with the existing structure. The outside structure is a metal flat roof building, proposing to put a 2nd floor on for office space for staff and remodel an existing area in the back for additional office space. The finishes on front will be barn board and asphalt roofing. There is an existing overhang on the front of the building, shown on the plan as landscape area, that continues all the way around. The new overhang will create a barn post look in front. It will be slightly bigger but still within the setback. The setbacks are achieved all around the property. He showed drawings of the current structure and also what was being proposed.

J. Pasquale made reference to a new drawing and asked if it would be facing Route 17. Yes, existing pergola backed by a fence right now. They will be taking it apart and reassemble as the new entrance to new showroom.

N. Jason asked how far the building would come out to the parking area in the front of the building. About another 6 inches. Will not exceed where the planting area is now.

D. Foley asked if there was a full scale drawing. G. Colegrove noted that the plans before the commission tonight are the existing conditions plan. The commission approved a plan that was built according to what was approved by a landscape architect who overlaid the existing information onto the existing conditions plan. In order to make this a site plan review Torrison will have to file a Mylar with the land records that has the proper certifications on it by a licensed professional engineer in order to make the permit effective. That is one of the conditions that G. Colegrove would like to put in the motion. G. Colegrove noted that the map does not reflect all the landscaping and fencing that was put in the screening of the property of the last approval that was done. There is nothing that shows the existing asbuilt.

T. Racki noted that Torrison has found another site in the industrial park to house the majority of equipment and inventory and this site will be re-organized, more of an office/showroom sight.

L. Davenport asked if there are changes to the parking layout. G. Colegrove stated that there will be a reduction in the current square footage but since they are moving stock off site it equals out.

N. Jason asked if the fencing configuration is changing. Not to T. Racki's knowledge. Not aware of any plans to move it at this time.

D. Foley asked if the setbacks will remain the same, from the state ROW. T. Racki, said yes, the building will not be coming any closer to the highway. D. Foley requested that the drawing presented be current and updated with the correct square footage.

G. Colegrove requested that before any permits are issued, the existing conditions plan that was originally approved and the proposed improvements be combined as one plan so a Mylar can be filed in the land records that can be used for zoning compliance. T. Racki requested to be on the agenda at the next meeting.

MOTION BY DAVE FOLEY, SECONDED BY CHRIS FLANAGAN, TO RECESS REGULAR MEETING AT 8:00 P.M. FOR PUBLIC HEARING. ALL AYE

PUBLIC HEARING

Applicant/Owner: Dennis Ceneviva/Graceful Bee Realty, LLC
Property Location: Main Street
Proposed Activity: Amend the following sections of the Durham Zoning Regulations:
Section 02. To include a definition of Coffeehouse; and Section 06.01 to permit coffeehouses with drive thru window service and to add a new section 06/13 which provides for eight criteria a coffeehouse with drive thru window service must meet.

In Attendance: Alana Adams, Campbell Barrett, Lisa Davenport, Chris Flanagan, Dave Foley, Norm Jason, Joseph Pasquale, Bonnie Ryder

Absent: Frank DeFelice, Steve DeMartino, Richard Eriksen, Daniel Melnik

Others: Geoff Colegrove, Dennis Ceneviva, Esq., Michelle Carlson, P.E. BL Companies, Fred Greenberg BL Companies, Mike Batista Principal Grace Bee Realty, LLC

Lisa Davenport opened the public hearing. Commission members were seated; Campbell Barrett was seated for Steve DeMartino, Norm Jason was seated for Frank DeFelice, Bonnie Ryder was seated for Richard Eriksen with no objections from the audience.

Geoff Colegrove read the legal notice published on September 24, 2015 and October 1, 2015 for the hearing into the record.

Dennis Ceneviva, Esq, Michelle Carlson, P.E., Fred Greenberg, Mike Batista, were present. D. Ceneviva started by entering a copy of traffic report produced by BL Companies into the record. M. Carlson presented a schematic as to how it would look. D. Ceneviva stated they wanted to give a sense of where they are at, and why the different language is found in the proposed text. He reviewed packet information that he provided the commission; #1) a copy of the proposed zoning text amendments, #2) he asked that his cover letter dated August 17, 2015 to Geoffrey Colegrove be marked as exhibit B, #3a) and #3b) printouts from the internet about noise, #4) a copy of zoning regulations from the Town of Guilford, #5a) and #5b) a story relative to a Torrington Church that is offering drive thru prayer services, and #6a) and #6b) a copy of an article from Time Magazine about drive thru casket viewings. He continued by explaining why each of the eight conditions are identified in the text, what value it places, and why it's there.

M. Batista, local Duncan Donuts franchise noted that his family has been franchise operators for 36 years, and has operated in Durham for 20 years. He talked about the Duncan Donuts brand and the convenience he would like to offer.

Commission members questioned the following various items (not limited to); the definition of a coffeehouse/restaurant, if the current Dunkin Donuts would remain at the Grippo location, traffic study and traffic flow, why a 4 acre lot was chosen, how many drive thru windows were being suggested, minimum 10 feet stacking lanes, the restriction of drive-thru window service being allowed on parcels where buildings currently have an existing drive-thru window, frontage requirements, Main Street ROW, and spot zoning.

Five letters of support were read into the record from Karen Kean, John Marks, Peter Gavin, Marcella Burrows, and un-readable signature.

Comments were heard from members of the audience.

MOTION BY DAVE FOLEY, SECONDED BY NORM JASON, TO CONTINUE THE PUBLIC HEARING OF DENNIS CENEVIVA/GRACEFUL BEE REALTY, MAIN STREET, TO THE NEXT MEETING. ALL AYE

MOTION BY DAVE FOLEY, SECONDED BY NORM JASON, TO RECONVENE THE REGULAR MEETING AT 9:35 P.M. ALL AYE

9. D. Goduti, Home Occupation, 997R New Haven Road

David Goduti addressed the commission by asking that Chris Flanagan recuse himself due to conflict of interest with another Board. C. Flanagan stated that he is a member of the DMIAAB Board. D. Goduti noted there was the potential of a law suit with DMIAAB and felt there would be a conflict of interest. L. Davenport noted that it was C. Flanagan's decision, not the commissions. C. Flanagan noted for the record that all home occupant permit applications have to qualify and remained seated.

D. Goduti then reviewed the description of proposed use and structures that he provided as part of his application. He submitted a document to the commission that contained signatures

from direct neighbors who stated they have no issues with the application. He noted that he received verbal agreement from the owner of Arti's Bar and the neighbor behind him and the commission could contact them for confirmation.

L. Davenport asked how many vehicles, and size of the vehicles, that are currently at 997R New Haven Road. D. Goduti responded that he used two vehicles for his business, a 2500 Chevy with a dump body and a packer truck (single axle, loads from the side) which is not in use (up for sale) and will be replaced with a different unit in the future (no bigger than the existing truck but will load from the rear).

G. Colegrove questioned what the current classifications of his trucks were. D. Goduti responded that the 2500 Chevy is a class 2 and the packer truck is a class 7, he will be replacing it with a class 7, 6, 5 or 4 depending on the body that comes with it.

C. Flanagan asked if a class 7 requires a commercial license. D. Goduti noted that any vehicle with air brakes requires a CDL unless it's an oil truck which is hazmat and requires special permits.

D. Foley felt that the 24 hour limitation (proposed use) for MSW being kept in a truck is a long time. He asked if there was a reason why he would not dump the same day. D. Goduti stated that this was state law and when his truck is used every day, he empty's it every day, or the next morning depending on his schedule, and unforeseen issues.

B. Rider asked if he had a garage that the class 7 vehicle could fit in. D. Goduti responded no, but could put up a temporary hut. B. Rider asked if he thought his business would cause more noise than any other home business such as a landscaper or contractor. D. Goduti responded no. None of his vehicles are modified or have exhaust leaks and he has direct access to Route 17. He noted that there is a bar, convenience store, and gun range in the neighborhood.

D. Foley noted that his home is in a residential zone; once it's permitted the commission has no control over it, such as the truck on site that is currently for sale, could remain on site forever.

C. Flanagan questioned the size of the vehicles that would be used and suggested putting a condition that would require him to come back to the commission for permission to have a class 7 truck on the property. J. Pasquale questioned how much a larger truck would hold. D. Goduti responded 16 yards and would push the garbage out the back which would be acceptable to dump at the Durham Middlefield site.

J. Pasquale asked if he would be looking to get into the dumpster business. D. Goduti responded possibly and would store empty dumpsters on property. J. Pasquale noted that he is concerned with the storing of garbage on a ½ acre lot, the closest neighbor is less than 100 feet from his home, and the impact on neighbors and property values. He continued by stating that his trucks don't currently pose any issues; leaks, odors, flammable or hazardous waste, but may in the future.

L. Davenport asked if the neighbor closest to him (behind him) was on the document that contained signatures. D. Goduti responded no, but they have spoken and have been good friends and gave his verbal consent and offered to have the commission members contact him.

L. Davenport then opened up the meeting for comments from the public.

Kati Forlini noted that she and other family members own property that D. Goduti uses (easement) to access his property. She asked the commission how this is not a commercial business using residential property in a residential zone. She stated she felt she would see a decrease in her property value. G. Colegrove stated that the easement would be a property/civil issue and would need to be addressed by an attorney. K. Forlini questioned the restriction of the number of vehicles and asked if there was regulations on this. G. Colegrove stated that Durham does not have regulation regarding this, but it is a home occupation permit and there is criteria in that section so the commission has the right to put conditions on the permit to ensure compliance.

K. Forlini asked if the vehicles are washed out and how. D. Goduti stated that his larger vehicle's top is open, rain water collects (truck bed is sealed) and when the vehicle is emptied the vehicle cleans itself. He noted he would bring the smaller truck to a car wash. C. Flanagan asked if cleaning the trucks were part of a normal routine. D. Goduti noted there was no law that required him to clean the trucks but he likes to keep them clean.

K. Forlini stated that a neighbor is against the permit and does not want to be named. She also noted there is an immediate neighbor with small children. She encouraged the commission to deny the application due to the easement, garbage issue, a commercial truck using the entrance of her property, and decrease in her property values. D. Goduti felt that if the commission denied him the permit due to a commercial truck crossing the property, any other commercial vehicle coming to his home would be in default and made reference to his deed.

Christy Gilbert spoke on behalf of D. Goduti. She lives with him with their two children ages five and two years old. She noted that D. Goduti takes very good care of his vehicles and washes them in Middletown and Wallingford. The office noted in the application consists of a small desk and laptop.

C. Barrett asked K. Forlini is she has noticed any odors or anything that would affect the health, safety, and welfare of anyone in the area. K. Forlini responded that her concerns were mostly aesthetic and future growth.

MOTION BY DAVE FOLEY, SECONDED BY CAMPBELL BARRETT, TO APPROVE THE FOLLOWING APPLICATION: D. GODUTI-HOME OCCUPATION, 997R NEW HAVEN ROAD WITH THE FOLLOWING CONDITIONS: 1.) ONLY ONE (1) CLASS TWO TRUCK WITH A GVW WEIGHT OF 10,000 OR LESS IS PERMITTED ON THE PREMISES, 2.) NO WASHING OF BUSINESS VEHICLES ON SITE, 3.) NO DUMPSTER STORAGE ONSITE, 3.) SUBJECT TO THE STANDARDS OUTLINED IN THE

APPLICATION. ADAMS, BARRETT, DAVENPORT, FLANAGAN, RYDER; AYE. FOLEY, JASON,
PASQUALE; OPPOSE.

10. Continued Discussion of Commercial Uses in MR Zone- Tabled

11. Payment of Bills - None

12. Minutes of Previous Meeting(s) - Tabled

13. Zoning Enforcement Officer's Report - None

14. Town Planner's Report - None

15. Miscellaneous - None

16. Adjournment

Meeting adjourned at 11:00 p.m.

Respectfully submitted,
Beth Moncata