

Special Planning & Zoning Commission  
7:00 p.m., Wednesday, November 4, 2015  
Meeting Room, Durham Public Library

Meeting Minutes

1. **Call to order**

Lisa Davenport called the meeting to order at 7:00 p.m.

2. **Roll Call**

**In attendance:** Alana Adams, Lisa Davenport, Dave Foley, Norm Jason, Daniel Melnik, Joseph Pasquale, and Bonnie Ryder who arrived at 7:25.

**Absent:** Campbell Barrett, Frank DeFelice, Steve DeMartino, Richard Eriksen, and Chris Flanagan

**Others in attendance:** Geoff Colegrove, Attorney Steven Byrne

3. **Seating of Alternates:** Norm Jason was seated for Frank DeFelice. Bonnie Ryder was seated for Steve DeMartino

4. **Approval of Agenda**

MOTION BY DAVE FOLEY, SECONDED BY NORM JASON, TO APPROVE THE AGENDA AS PRESENTED. ADAMS, DAVENPORT, FOLEY, JASON, MELNIK, PASQUALE; AYE. RYDER; ABSTAIN

5. **Executive Session: Steve Byrne**

6. **Adjournment**

MOTION BY DAVE FOLEY, SECONDED BY NORM JASON, TO ADJOURN EXECUTIVE SESSION TO GO INTO REGULAR MEETING AT 7:36 P.M. ADAMS, DAVENPORT, FOLEY, JASON, MELNIK, PASQUALE; AYE. RYDER; ABSTAIN

Lisa Davenport called the regular meeting to order at 7:40 p.m.

7. **Public Session** – No business

8. **D. Goduti, Home Occupation, 997R New Haven Road**

Attorney Steven Byrne explained to all in attendance that the towns zoning regulations require anyone requesting a home occupation permit to give notice by certified mail to the owners of record abutting the subject property of the site plan and application. At the October 7, 2015 meeting of the Planning & Zoning Commission, this issue was not raised and a home occupation permit was approved, with conditions to D. Goduti. At the October 21, 2015 meeting of the Planning & Zoning Commission, the question was raised as to whether property owners were properly noticed. He noted that planning & zoning notice requirements must be followed, otherwise the action is not proper. The commission then consulted with his office to find out what the best course of action

would be, they went into executive session at tonight's meeting and talked about the matter. Attorney Byrne then offered his opinion with two choices. 1.) The commission made a decision and if anyone has issues with this decision they can take an appeal to superior court. He noted that there is normally a quick appeal period; 15 days from the date of decision. He also noted that there is a provision in state laws that states if the appeal involves notice you have one year to take that to court. 2.) The other option he was not too comfortable with; because of the alleged notice dispute, the commission could re-hear the application but the commissioners felt that an issue like this deals with the towns zoning regulations, and this was a neighborhood issue, and if it is re-heard by the commission they would have to hear it quick; next month. He felt if the commission didn't re-hear the application and let the decision remain, a.) the appeal to court would be available to the neighbors, and b.) there would be a one year period to bring to light any other issues with the home occupation permit that may come forward. He finished by stating that both he and the commission felt that rather than go forward with re-hearing the application, they wanted to see if something else could be done to bring the parties together to resolve their differences, and asked the residents in attendance if they would be amenable to meeting with him, their attorneys, and Geoff Colegrove to see if they could reach an agreement. He noted if they could not reach an agreement that the appeal process would still be available to them.

Lisa Davenport reiterated that the commission's recommendation was to have Attorney Byrne, Geoff Colegrove, and attorneys, work with all parties to come to a compromise that works with all involved, and come back to the commission. She credited Joe Pasquale for raising the option and felt that this opportunity should be given a chance before making a rash decision. She then asked all in attendance if they were in agreement. All in attendance agreed to the mediation offer.

#### **Payment of Bills**

MOTION BY LISA DAVENPORT, SECONDED BY DAVE FOLEY, TO APPROVE THE FOLLOWING BILLS FOR PAYMENT: ALL AYE

- Byrne & Byrne, 10/7/2015 services, \$360.00
- Byrne & Byrne, 10/22-10/30/2015 services, \$720.00

MOTION BY BONNIE RYDER, SECONDED BY NORM JASON, TO APPROVE THE FOLLOWING BILLS FOR PAYMENT: ALL AYE

- Midstate Planning Consultants, 9/1-9/30/2015, \$1,732.50
- Midstate Planning Consultants, 10/1-10/30/2015, \$3,514.00

#### **9. Minutes of Previous Meeting(s)**

MOTION BY DAVE FOLEY, SECONDED BY NORM JASON, TO APPROVE THE OCTOBER 21, 2015 MINUTES AS AMENDED. ADAMS, FOLEY, PASQUALE; AYE. JASON, MELNIK, RYDER; ABSTAIN.

#### **10. Zoning Enforcement Officer's Report**

62 Wheeler Hill update; G. Colegrove visited the site and checked with the Tax Collector; there are nine or ten vehicles; some with older American plates. There are also four buildings on the property. He noted that one is clearly up against the property line of the access way to the Wheeler Hill recreation area. He noted that there are other circumstances that need to be resolved;

understandably, the neighbors are upset with the situation but he was not sure if the resident is has full understanding of the situation G. Colegrove will make another site visit.

6R Little Lane; G. Colegrove did receive a call from the resident in reference to the letter sent on October 23<sup>rd</sup>. He was unsuccessful in getting an appointment with the resident to review the paperwork on the vehicles and other items in the yard, but will continue to try to contact him. G. Colegrove stated that the amount of material being stored is down to a relatively small amount, and noted that there is a landscape trailer with motorized equipment and a FEMA type house on the property with a separate pre-constructed stairway.

#### **11. Town Planner's Report**

G. Colegrove advised the commission that there has been expressed interest is the possibility of a vineyard coming to Durham. He will be getting a list from the assessor of properties 30 acres or more and will be meeting with those involved on Friday, 13<sup>th</sup> to discuss. He noted that what is being proposed would need to be on a state highway or a collector road.

G. Colegrove spoke with Attorney Ceneviva in reference to the change in regulations for a drive thru window service and noted that Attorney Ceneviva will be back with a revision and may be requesting a waiver of fees. J. Pasquale noted that he felt the commission did not have to hear the application, as CT state statutes gives authorization to the commission not to hear multiple changes within a one year time period, so applicants don't keep changing community's regulations. L. Davenport noted that the commission did not change the regulation. Attorney Byrne stated that zoning board of appeals is six months but a zone change does not have that limitation. He noted that what stops applicants is the commission cannot change its vote; if it is turned down the applicant cannot come back with the same application.

#### **12. Miscellaneous**

J. Pasquale referred to Section 07. Industrial Districts of the P&Z regulations, Section 7.01.03, Permitted Uses #9 is listed with a double asterisk to see section 12.05, noting it should be 13.05 and asked how to correct the error. G. Colegrove explained that this was a Scribner's error. J. Pasquale also questioned if "x" is permitted by right, shouldn't it be an "s" or a "p"? G. Colegrove agreed that it was incorrect, but could not come up with any scenarios other than one, that he was not even sure was in the zone that would be effected by the error.

#### **13. Adjournment**

Meeting adjourned at 8:05 p.m.

Respectfully submitted,  
Beth Moncata