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Planning and Zoning Commission Meeting
7:30 p.m., Wednesday, July 20, 2016
Lower Level Meeting Room, Durham Library

Minutes

1. **Call to order**
   Frank DeFelice called the meeting to order at 7:30 p.m.

2. **Roll Call**
   In attendance: Alana Adams, Lisa Davenport, Frank DeFelice, Dick Eriksen, Chris Flanagan, Dave Foley, Dan Melnik, Jan Melnik, Joe Pasquale
   Absent: Campbell Barrett, Edward Fronc, Will Spooner
   Others in attendance: Geoff Colegrove, Attorney John Corona, Paul Jorgensen; Architect with Silver Petrucelli & Associates

3. **Seating of Alternates** – None

4. **Amendments to Agenda** - None

5. **Approval of Agenda**
   MOTION BY ALANA ADAMS, SECONDED BY DAVE FOLEY TO APPROVE THE AGENDA AS PRESENTED. ALL AYE

6. **Public Session**
   No business

7. **Review and Action on Proposed Draft of the Plan of Conservation and Development**
   F. DeFelice presented commission members with the amendment proposed by the Board of Selectmen at their meeting of July 11, 2016 to Chapter 10, Land Use; Section 10.3.10 Mixed-Use Development. "Mixed-use development is permitted in all Commercial Zones provided that the uses are not more intensive than Commercial. Mixed-use development is permitted in nonconforming parcels, provided that the use is no more intensive than the previous use". (delete last sentence in 10.3.10)
   MOTION BY JAN MELNIK, SECONDED BY LISA DAVENPORT TO ACCEPT LANGUAGE AS AMENDED BY THE BOARD OF SELECTMEN AT THEIR MEETING OF JULY 11, 2016, TO THE PLAN OF CONSERVATION AND DEVELOPMENT. ADAMS, DAVENPORT, DEFELICE, ERIKSEN, D. MELNIK, J. MELNIK, PASQUALE; AYE. FLANAGAN, FOLEY; OPPOSED. MOTION CARRIED.

   MOTION BY JAN MELNIK, SECONDED BY LISA DAVENPORT TO ADOPT THE PLAN OF CONSERVATION AND DEVELOPMENT AS AMENDED WITH PRIOR VOTE. Discussion: Joe Pasquale suggested reviewing the Economic Development Chapter Sections 6.2 Strengths and Limiting Factors and 6.4 Infrastructure Improvements to Stimulate Economic Development. He felt the 6.2 wording insinuated deterrents and it should be left up to potential builders to decide what they felt the town may lack. 6.4 he felt the language portrayed negatively. He noted the deadline for submission to the State had past and felt it would only take a short amount of time to change valid points.

   D. Eriksen cautioned members about making serious changes to the Plan and suggested passing the document as is and to revisit the items in the future.

F. DeFelice passed out language crafted in reference to comments heard at public hearings held that included technology infrastructure, the potential gas line, and winery. Dan Melnik asked if these changes were made to the draft Plan, would the commission have to go back to the public for comment. F. DeFelice stated no, by Statute, the commission could modify the Plan prior to approval. D. Foley stated he was uncomfortable with making changes. He felt while the proposed changes were good, there was an inability to hash out items due to the strict timeline. He suggested considering the draft Plan as it is and to review the language presented by F. DeFelice at another time. F. DeFelice agreed noting the commission would be revisiting the Plan more frequently. C. Flanagan agreed with D. Eriksen and D. Foley and asked commissioners how the Selectmen's directive was any different than F. DeFelice's suggestions. F. DeFelice responded that the amendment was made by the Board of Selectmen and the commission was required to either accept or reject it.

Lisa Davenport spoke in reference to F. DeFelice's suggested changes noting she agreed with D. Foley but wanted confirmation that the commission would agree to review the proposed language and add to a future agenda for discussion and to continue the current momentum on the Plan. F. DeFelice agreed.

J. Melnik appreciated J. Pasquale's points to an extent. As part of the economic development commission's chapter, the Plan is talking about strengths and limiting factors. She felt it reasonable to include both. Her thought was to change the language to a positive spin while still recognizing that limiting factors do exist.

D. Eriksen then asked for a vote on the motion. ADAMS, DAVENPORT, DEFELICE, ERIKSEN, FLANAGAN, D. MELNIK, J. MELNIK; AYE. FOLEY, PASQUALE; OPPOSED. MOTION CARRIED.

MOTION BY DICK ERIKSEN, SECONDED BY DAVE FOLEY TO ADOPT THE PLAN OF CONSERVATION AND DEVELOPMENT EFFECTIVE AUGUST 1, 2016. ALL AYE

8. <u>Town of Durham, Public Safety Complex, Special Permit</u>

Dick Eriksen advised the commission that the Inland Wetlands Commission approved the Plan presented at their last meeting, in terms of sewer and water.

Paul Jorgensen; Architect with Silver Petrucelli & Associates was in attendance to advise the commission that the town of Durham made application for a site plan review special permit for the public safety complex (emergency services facility) including additions and alterations to the existing buildings at #37, #41 and #51 Main Street. He then reviewed the site plan.

- #37 Main Street would house the Ambulance Corp (dayroom, offices, conference room and storage and stairs to second floor storage and bunk room) and be fully renovated with a large addition in the back and a double garage with pull thru bays. ADA compliant with handicap access in rear with wheelchair lift; the porch on the front will remain the same. 2100 square feet minus the bays. The grade elevation will be raised about 16-18 inches in the back of the lot where the septic is located.

- #41 Main Street; current fire house will have a new drive thru bay (14x14 with glass doors) to accommodate larger vehicle, additional storage and locker space, minor ADA improvements, and a small addition on the north side that will match the existing building.

- #51 Main street will be fully renovated, reduced in size, and will house the Resident State Trooper, Emergency Management, and Public Safety Communications offices with a small conference room. Second floor offices. Dry building; heated by gas or propane and will contain one bathroom. Handicap entrance in the back. An addition of a separate carriage house behind the existing building that will contain three bays and stairs up to a storage area. The grade elevation will be raised for a small retaining wall with guardrails. Siding will be maintenance free to resemble what is there now.

The existing traffic pattern will remain the same with an added loop coming through for the ambulance and additional parking in the front for emergency responders. This has been approved by Inland Wetlands and have conditional approval of the Historic District Commission for the design development plans; if the project moves forward they would like to see more details from the construction documents.

D. Melnik asked if the whole site will be repaved. P. Jorgensen stated that this type of detail has not been worked out yet.

G. Colegrove stated when the Plan went before Inland Wetlands there were two issues; one was the enlargement of the retention facility on the north and the second, the installation of a pressure pipe for the sewage to pump the system to the back of the lot. There is now a proposed septic system for 51 Main Street that will no longer go into the septic area at the Fair Grounds. The pipe is in the east portion of the property. P. Jorgensen noted the septic area was directly behind the addition on 41 Main Street, just north of the existing parking lot; the capacity for the area is 750 gallons per day. What was being proposed is to build out 150 gallons per day capacity for 51 Main Street, this would leave a reserve of 600 gallons per day if the fire house ever needed the extra capacity.

F. DeFelice asked if this meets State health code. P. Jorgensen stated it would meet the capacity of the site. The ambulance facility has its own septic system.

C. Flanagan stated he was under the impression that the Durham Fair Association was going to allow for the septic system for 41 Main Street because their agreement is with the Durham Volunteer Fire Company and not the town. He asked if #41 would need to disconnect when the addition is built. P. Jorgensen stated no, the agreement would still be in place. J. Pasquale asked what the term of the agreement was. Carleton Stoup interjected that no physical agreement can be found. P. Jorgensen explained that the Plan being presented tonight is to construct only what is required for 51 Main Street.

G. Colegrove clarified that the commission would be approving the capacity of 750 gallons per day that could accommodate both buildings, but the system would be a complicated expensive type of system that would require storage during peak flows and dosing the system that would except the discharge in an adequate manner and still not overflow. Town Sanitarian, Bill Milardo has approved the plan as submitted and he will get documentation to that effect.

D. Foley asked if the impact of additional traffic has been considered. P. Jorgensen responded yes. Looking at the existing pattern, the light that is there is sufficient for the three buildings. No change is proposed to the light system. D. Foley asked about the new road coming out to the south of 37 Main Street was going to be out only. P. Jorgenson responded yes. D. Foley asked if there has been discussion about access to the facility in the event of traffic on Main Street every morning and evening.

P. Jorgenson stated that no traffic studies have been prepared or presented for additional traffic volume, only for the traffic coming out of the site. D. Foley noted his concern related to how responders would exit the facility during peak hours.

J. Pasquale asked for clarification on the septic systems. P. Jorgenson explained that a pump system for 51 Main Street would be built for 150 gallons a day. J. Pasquale asked if 41 Main Street is tied into the system and expanded, a whole pump system would need to be applied and asked if this was taken into consideration in the current Plan. P. Jorgenson responded yes, the reserve field for the 750-gallon system is located in the back corner, north of the existing parking lot.

F. DeFelice asked if the septic system that is being proposed for the one building, is on that building's specific parcel. P. Jorgenson responded that if the project moves forward, the parcels would need to be combined in order for the system to be built.

G. Colegrove talked about the original discussion when the coverage was based on all three lots being combined. The calculation comparisons were done on a combined situation, not on individual lots. This makes a difference because some of the lots would not conform if left alone.

C. Flanagan asked if 37 Main Street was within the setback. P. Jorgenson responded that it was. C. Flanagan noted that 51 Main Street, if combined, would not be in the setback and would require Zoning Board of Appeals for a variance. P. Jorgenson responded the carriage bay and existing building are within the fifteen-foot setback.

F. DeFelice asked what the total lot coverage would be when the three buildings are constructed. P. Jorgenson did not have details. G. Colegrove stated he reviewed this and did not have the exact number but noted it was compliant.

C. Flanagan asked when the three separate lots are combined, would the side setbacks have to a specific distance. G. Colegrove stated no, there are no setbacks for internal structures. C. Flanagan asked what the end setbacks would be. G. Colegrove stated they would need to be the same as farm residential. C. Flanagan felt there remains an issue with 51 Main Street as far as its side yard. G. Colegrove noted that the old structure is non-conforming and the new structure is conforming.

A. Adams noted her concern regarding the driveways and the potential for a bottleneck at the one light at the facility and asked if there were plans to relocate the light. Laura Francis commented that to her knowledge these kinds of lights are no longer being approved anymore and are deemed in-effective. The current light was repaired because it was existing. Emergency responders are responsible to manage traffic.

J. Pasquale noted there is a 1,000-gallon tank and a 2,000-gallon holding tank on the Plan located under the driveway at 51 Main Street. G. Colegrove responded that the 1,000-tank was for a water separator that would typically be built under a driveway as a preferred location.

J. Pasquale asked why the retaining wall at 51 Main Street was so high and not tapered. P. Jorgenson stated they did not want to infill directly next to the wetlands. C. Flanagan asked if the water quality basin adjacent to the wetlands was under review. G. Colegrove stated that it was originally opposed. Slight modifications were made and approved by Inland Wetlands.

Commissioners scheduled Monday, August 1st, 6:00 p.m. for a site walk at the Fire House.

MOTION BY DAVE FOLEY, SECONDED BY ALANA ADAMS, TO SET A PUBLIC HEARING DATE OF AUGUST 3, 2016 FOR THE PUBLIC SAFETY COMPLEX, SPECIAL PERMIT. ALL AYE

9. R. & N. Sleath, Establish accessory apartment in existing residential building, 360R Johnson Lane

Attorney John Corona, representing Rowland and Nancy Sleath advised commission members that the Sleath's purchased property at 360R Johnson Lane in 1970 that consisted of a single house on over five acres and occupied the home. They then received permits to construct a second, larger home on the property, moving into the larger home, and renting the smaller home for more than forty years. Attorney Corona noted the property has, at all times, been taxed by the town of Durham as a single parcel with two homes. He also noted that all permits and approvals were obtained from the town and they have never been notified of any zoning violations or has never taken any enforcement action against the Sleath's concerning the land use of the property.

The Sleath's are now looking to sell the property and interested buyers and mortgage lenders require confirmation that the property complies with the towns zoning requirements. Attorney Corona stated that Durham's Zoning Enforcement Officer is unable to confirm compliance because there is no record of how or why the town permitted two dwellings to be constructed on a single parcel.

Attorney Corona informed the commissioners that the Sleath's are going to apply to the commission for an accessory apartment permit to resolve the zoning status of the property noting under this type of permit, an owner must live in the principal or accessory structure. The regulations also require that the accessory unit be incorporated within the residence and that the accessory unit be no more than one-third of the total habitable space. He noted that the proposed accessory unit is an existing building and its habitable space is slightly more than the regulations require, and the applicants are seeking variances as to both those requirements.

- to permit the accessory unit to exit outside the single family residence
- to permit the accessory unit to exceed the one-third limitation by sixty-two square feet

G. Colegrove stated he researched and found no permits for the smaller home and 1949 aerial footage show no building on the property. He stated that a survey done in 1964 shows a foot print and according to the assessor's department the basic footprint has not changed and noted that the use is the issue.

C. Flanagan asked why this was not strictly a zoning board of appeals decision to grant a variance. Attorney Corona responded that the Sleath's could have asked for a variance for two principle buildings on a single lot but decided to limit themselves to an accessory unit which requires the owner to live in either of the buildings. If a variance was requested for two buildings on a single lot the entire property could be subject to rental and the Sleath's felt this was a more modest approach.

Each building has their own septic and well and dividing the property was not feasible. Variances were granted at the last Zoning Board of Appeals meeting and town Sanitarian Bill Milardo has no issues and will have documentation of this at the public hearing.

The application has been filed and are requesting a public hearing.

MOTION BY DAVE FOLEY, SECONDED BY LISA DAVENPORT TO HOLD A PUBLIC HEARING ON AUGUST 3, 2016 FOR R. & N. SLEATH, ESTABLISH ACCESSORY APARTMENT IN EXISTING RESIDENTIAL BUILDING, 360R JOHNSON LANE. Discussion: J. Pasquale questioned Attorney Corona about going the Planning and Zoning route versus Zoning Board of Appeals. Attorney Corona stated with the aid of the variances granted by the Zoning Board of Appeals, the application now complies with regulations. J. Melnik asked if this will follow the five-year renewal requirement for accessory apartments. J. Corona responded yes and noted that there is a mechanism in the regulation if the commission choses to use it. C. Flanagan questioned if the commission was reconsidering the possibility to change the regulations to allow separate accessory apartments. J. Corona stated he hoped the commission would do so. Vote: ALL AYE. MOTION CARRIED.

10. <u>Payment of Bills</u>

Tabled

11. <u>Minutes of Previous Meetings</u>

MOTION BY DAVE FOLEY, SECONDED BY ALANA ADAMS TO APPROVE THE JULY 6, 2016 MEETING MINUTES AS PRESENTED. ADAMS, DEFELICE, ERIKSEN, FOLEY, D. MELNIK, J. MELNIK, PASQUALE; AYE. FLANAGAN; ABSTAIN. MOTION CARRIED.

MOTION BY DAVE FOLEY, SECONDED BY JAN MELNIK TO APPROVE JULY 13, 2016 PUBLIC HEARING MINUTES AS AMENDED. ALL AYE

12. <u>Zoning Enforcement Officers Report</u>

Route 68 Industrial Park: G. Colegrove spoke with Mr. Forlini and he has expanded the use to two additional bays. He spoke with Building Inspector, Dick McManus who stated that is it not what he does in the buildings, it would be the use. D. McManus will be doing an inspection and has not yet report back. The site plan shows there is a department of motor vehicle minimum of seven parking spaces per storage unit and there are thirty-five to forty cars on the property. He noted that it didn't seem to be a problem as there is not much activity other than his business. D. Eriksen suggested notifying the owner of units. F. DeFelice questioned how many spaces were approved by the commission. D. Foley stated there was a maximum and specific number of cars permitted on the approval. He also stated that the buildings were originally approved as storage and Mr. Forlini then came before the commission to request to operate a business out of the storage space. G. Colegrove stated that regulations were changed to allow automotive use on the property. F. DeFelice suggested the commission needed to hear back from D. McManus and to find out what the commission approved for spaces and discuss at the next meeting. J. Melnik stated that the approval was January 6, 2010, site walk was December 19, 2009.

Camp Farnam: A complaint was received from a neighbor about traffic, noise and an intoxicated individual and was asking what uses were allowed on the property. G. Colegrove researched and found that there is a pre-existing use status because it was a YMCA pond at one time. He spoke with Attorney Bryne who stated if it is a pre-existing use they have a right for intensification of the use, but not to expand the use that were not conducted at the time zoning was adopted. G. Colegrove stated he now has to research what existed in 1955.

13. <u>Town Planners Report</u>

350 Main Street currently has space being used as storage and would like to lease it to a very small congregation that would hold prayer meeting on Tuesday and service on Sunday. G. Colegrove stated

he did not think that parking would not be an issue with the current Durham Activity Center schedule. He spoke with Bill Milardo who did not foresee any problems, and noted they would have to meet occupancy requirements.

G. Colegrove handed out copies of Diana Cruise's petition for zone change.

14. <u>Miscellaneous</u>

J. Pasquale stated that the Coginchaug Football Club application that came before the commission on July 6th, was not signed by the applicant, RSD13 signed it.

L. Francis thanked the commission for their work on the Plan of Conservation and Development noting worthy actionable items in the document and stated she was willing to with the commission to achieve these goals.

L. Francis stated for the record that the town of Durham did not lose any grant funding for non-compliance related to the Plan of Conservation and Development. She noted that grant funding for a local bridge project and preservation grant continue to be secure. The town was not included in the last round of STEAP grants but are not out of the running. The Governor parcels out the awards.

15. <u>Adjournment</u>

Meeting adjourned at 9:45 p.m.

Respectfully submitted, Beth Moncata