

**TOWN OF BROOKLYN
PLANNING AND ZONING COMMISSION
Special Meeting
Tuesday, March 20, 2018
Clifford B. Green Meeting Center
69 South Main Street
6:30 p.m.**

MINUTES

- I. Call to Order** – Michelle Sisfridson, Chair, called the meeting to order at 6:38 p.m.
- II. Roll Call** – Michelle Sigfridson, Carleen Kelleher, A. Kerouac, J. D’Agostino, Austin Tanner.
J. Mohn was absent with notice.
- III. Adoption of Minutes:** Special Meeting Minutes February 20, 2018.

Motion was made by A. Kerouac to accept the Minutes of the Special Meeting of February 20, 2018, as presented. Second by A. Tanner.

Discussion:

J. D’Agostino asked what is meant by J. Roberson’s comment regarding gravel mining (page 9, second paragraph). It was clarified that she meant taking material out of the ground which is different from processing.

Motion carried unanimously (5-0-0).

- IV. Public Commentary** – None.
- V. Discussion with Zoning Enforcement Officer/ZEO’s Report**

Martha Fraenkel, ZEO, reviewed her Report dated March 20, 2018. The following properties were discussed:

- August Drive
This property had been cleaned up, but then reverted back. This person owns fifteen parcels in the Paradise area and Ms. Frankel suspects that many of them have junk problems. Ms. Fraenkel explained the two processes (which cannot be co-mingled) to bring violators into compliance: Zonong Regulations and Statutes (fines/court/injunctions); Fine Ordinance (which allows her to give tickets and is her preferred method).
There was discussion and C. Kelleher voiced support for Ms. Fraenkel’s preference. M. Sigfridson voiced concern that the goal is to get the property cleaned up, not for the Town to make money from it. However, it is not wanted for the Town to incur costs.
There was discussion as to whether all of the properties in the Paradise Lake area could be handled concurrently.
- 417 Wauregan Road
Ms. Fraenkel explained that enforcement follows the property. The prior owner had removed tires, but did nothing about the debris. The new owner stated that he will have it cleaned up by May 1st.
- 49 Pomfret Road – Order was recorded in the land records.
- 129 Pomfret Road – Higher priority due to potential wetlands problem.
- 52 Tatnic Road - Higher priority due to potential wetlands problem.

There was discussion regarding Sansoucy. He did what he was supposed to do.

A.Kerouac – PC Zone:

- Donation Bin on Wal-Mart property near Hank’s dumpster.
- Temporary Signs in line of sight: Hank’s; Intersection of Route 6 and Day Street.

- Driving south on Route 395 near Owen Bell (Dayville) look to the right to see a huge strip of lights that looks like an airport. Bright lights are being used in parking lots which may not be compliant (not full cutoff).
- Lights shining out of the window at One Stop.

Mr. D'Agostino asked Ms. Fraenkel how she divides the 24 hours that she works each week. Issuing permits, enforcement, answering phone calls (she explained how involved answering just one question can be), blight, wetlands. There was discussion.

Motion was made by A. Kerouac to move Item:

VI. Unfinished Business:

b. Other:

1. Discussion of Zoning Regulation Rewrite: Contractor's yard, Zoning Map, Public Review draft, etc.

To after:

VII. Unfinished Business:

b. Other:

1. Preliminary discussion re: potential residential development on Windham Road.

Second by A. Tanner. Motion carried unanimously (5-0-0).

VI. Unfinished Business:

a. Applications:

1. **SPR 17-004** – 242 Hartford Road, Balone Properties, LLC; RA Zone; Proposed Home Business with Resident Contractor/Office.

J. Roberson stated that there is no change and that IWWC has not acted on this Application yet. A 65-day extension had been granted. Mr. Malone is working on some other options.

2. **SP 18-002** – 15 Providence Road, George M. Richardson, Proposed restaurant/café in the Village Center District.

J. Roberson explained that the Application has been withdrawn.

3. **ZRC 18-001** - Carrie Juhasz, Request to modify Sec. 2 - Definitions and Sec. 6.2.2.4 – Home Office of the Zoning Regulations.

J. Roberson explained that Ms. Juhasz (seated in the audience) has agreed to allow her proposal to be modified to add definitions for Beauty Shop and Single Service Salon and also to delete Section 6.2.2.4.

Beauty Shop means a personal services establishment with more than one sink or hair cutting chair.

Single Service Salon means a personal services establishment with no more than one sink and one hair cutting chair, intended to serve a single customer at a time, located within a residence as an accessory use. A single service salon is considered a home office for the purposes of Sec. 6.2.

Section 6.2.2.4 (to be deleted) No business shall be conducted from the Home Office except by mail or electronic medium.

J. Roberson stated that this would accommodate Ms. Juhasz as well as other home offices where there is occasionally a customer that comes to the residence. M. Sigfridson stated that she is strongly in favor of deleting Section 6.2.2.4 as she feels it is overkill. Ms. Juhasz stated that she does not have any concerns and that she feels it is great if it would allow others to work in their homes if it is not an interference to the neighborhood.

J. Roberson explained that a public hearing is necessary for a text amendment and that the neighboring towns and NECCOG must be notified 30 days prior to opening the public hearing. J. Roberson stated that Ms. Juhasz would need to sign for a 19-day extension to open the public hearing on May 2, 2018.

There was discussion regarding whether a definition for barber shop is needed.

- It was decided not to add the definition for Beauty Shop because it is covered under the current definition for Personal Services Establishment.

Discussion continued. Martha Fraenkel was asked if enforcement would be manageable. She stated that, in her experience, problems with home businesses come from equipment in the yard. She expressed caution regarding crossing the line to allow retail as this is another kind of activity that is different from services. Discussion ensued. Sections 6.2.2.4 and 6.2.2.1 were referenced. M. Sigfridson stated that you would not be called a retail establishment for offering those things that are incidental to your services. Section 6.1 General Provision states that retail is not allowed (applies to all instances).

M. Sigfridson stated that, for future Boards, she would like the Minutes to reflect that this Board did not feel as though retail incidental to services would be prohibited.

Motion was made by A. Kerouac to schedule a public hearing for May 2, 2018 at 6:30 p.m. at the Clifford B. Green Memorial Building, located at 69 South Main Street, for Carrie Juhasz, Request to modify Sec. 2 - Definitions and Sec. 6.2.2.4 – Home Office of the Zoning Regulations. Application amended as follows:

- **Single Service Salon** means a personal services establishment with no more than one sink and one hair cutting chair, intended to serve a single customer at a time, located within a residence as an accessory use. A single service salon is considered a home office for the purposes of Sec. 6.2.
- **Delete Section 6.2.2.4** - No business shall be conducted from the Home Office except by mail or electronic medium.

Second by At. Tanner. Motion carried unanimously (5-0-0).

J. D'Agostino asked if a notice could be placed in the newspaper. J. Roberson explained that a mandatory legal notice will be posted, NECCOG and neighboring towns will be informed and it will go on the website. She will also inform the EDC. It is not required to notify neighbors because it does not affect Ms. Juhasz' property in particular.

b. **Other:**

1. Discussion of Zoning Regulation Rewrite: Contractor's yard, Zoning Map, Public Review draft, etc. - **See after VII. New Business, b. 1.**

VII. New Business:

a. **Applications:**

1. **GBR 18-001** – Renewal of Gravel Permit for Brooklyn Sand & Gravel, Wauregan Road (Map 30, Lot 97), 64 acres.

Full-size plans were provided for viewing by Commission Members.

David Held, Professional Engineer and Land Surveyor, Provost & Rovero, represented the Applicant. He explained that the PZC would not be able to act on this Application this evening because IWWC has not acted on it yet as their meeting had been cancelled due to inclement weather.

Mr. Held explained that there had been a lengthy approval process last year for this site with discussions over quantities that were allowed to be taken off the site. He hopes that this year would be an abbreviated and streamlined process. He stated that Ms. Fraenkel has been making regular inspections of the site throughout the year, both for Wetlands and for Zoning purposes.

The second page of the plans is an overall view property and processing and excavation areas. He indicated the main driveway into the site from Route 205 and oriented the site indicating the area where the proposed excavation was for last year and stated that they are proposing additional excavation there this year. Last year, there was agreement that 100,000 yards would be permitted to be removed from the site under existing special permit approvals. During the last calendar year, they excavated 53,000 yards. There is a good-sized stockpile of raw material next to the plant which they estimate to be about 5,000 yards (still sitting on the site waiting to be processed when the weather is warmer). Approximately 48,000 yards has left the site. However, Mr. Held explained that precise accuracy cannot be determined because some of the stockpile material may have been imported. He has not heard of any violations. So, he assumes that the quarterly reports that the Applicant has been submitting to the ZEO quantifying how much has been brought into the site will be summarized into a report from Ms. Fraenkel. She has been working on and reviewing the Application.

This year, they are proposing to excavate 47,000 yards from the site which would total the 100,000-yard cap under the existing approval. After that, the Applicant understands that a new special permit for the site would be required.

Mr. Held explained that they cut back the excavation area (which used to extend further to the north) because they found that the material there is unsuitable. He indicated the area where they are proposing to dig deeper rather than spreading out. They did a test pit and found that there is good material there. Mr. Held stated that the rest of the plans are basically the same as previously: restoration plan for the size of the hole; bonding kept in affect throughout the year; conditions of approval from PZC and IWWC were documented that they have been complied with; restored parts of the site area and have provided additional buffers to the River.

J. Roberson asked about some stepping back in activity from an area that is close to the River. Ms. Fraenkel stated that it has been closed/final graded. Mr. Held stated that it was a condition from IWWC and that it has been topsoiled and seeded. They need to do some maintenance work on it to get the vegetation well established.

Ms. Fraenkel explained that she and J. Roberson had visited the site together (earlier in the day) to observe the depth of the proposed excavation and she stated that it is not unique to this particular proposal, but there is always concern for being able to achieve the finish grades without importing material. She also voiced concern for approvals regarding restoration vegetation because the sites tend to be pretty sterile no matter how careful the operator is because there isn't much topsoil to work with. Requiring the right seed is of critical importance. She will include information regarding seeding in her final review of the Application.

There was discussion regarding the decision to dig deeper rather than wider.

Mr. Held indicated, on the restoration plan, where the proposed excavation area is. J. Roberson stated that all aspects of the restoration plan need to be considered as part of this renewal. How much material needs to be imported, if any, is important to know. Mr. Held stated that that question was answered last year and that the little bit that they would be doing, compared to the entire site, is meaningless. He explained that it is about a balance. The disposition of the pond is a question that is up in the air. This proposal shows the ponds as being filled in as part of the restoration. There was discussion.

Mr. Held stated that, for the restoration, the bonding has not changed from last year. The Town holds a bond for \$200,000 for the entire 22-acre restoration area.

A.Kerouac asked whether there is enough material to bring to the proposed contours (180, 182, 184). Mr. Held explained that it should be pretty close.

There was discussion regarding imported material and what was mined on site for last year. Ms. Fraenkel stated that 44,000 yards were imported and 53,000 yards were mined on site. There was discussion regarding how much can be imported: Imports can match, but not exceed, the amount mined on site.

Mr. Held stated that it is likely that the PZC would see a new special permit application before March 2019, which would include a completely new restoration plan because they would be going into untouched areas.

The IWWC is holding a special meeting on April 3rd and if they act, the PZC could, potentially, act at its regular meeting on April 4th.

2. **SD 18-001** – Request for Extension and Re-Phasing for the Village in the Woods Subdivision (73 lots located at the terminus of Old Tatnic Hill Road), Meehan Builders, LLC.

J. Roberson explained there were two letters from Attorney Heller (dated February 5, 2018 and February 20, 2018 included in packets to the Commission Members). Ms. Roberson sent information to Attorney Alter for advice. The Subdivision was valid for nine years which expired in May 2017. The process for recording a notice of expiration of the Subdivision had been started. Ms. Roberson had spoken to Attorney Heller in December and informed him of the expiration. However, Attorney Heller still filed a Request for Extension and a Re-Phasing. The advice from the Town Attorney was to receive the Application and to handle it as the PZC would any other (subject to normal timing requirements). However, the recommendation was to immediately refer it to the Town Attorney.

There was discussion regarding timing requirements. The Application was received at the March regular meeting (by Statute) even though that meeting had been cancelled. Ms. Roberson stated that if they had applied for an extension during the nine-year period to conduct work, primarily building the roads, (defined by Statute), they could have received an extension for an additional four years. There was discussion. The question for the Town Attorney is whether the PZC can legally grant an extension or if the PZC has to ask for a new application.

Motion was made by J. D'Agostino to table **SD 18-001** – Request for Extension and Re-Phasing for the Village in the Woods Subdivision (73 lots located at the terminus of Old Tatnic Hill Road), Meehan Builders, LLC to wait for a response from Town Attorney, Peter Alter. Second by C. Kelleher. Motion carried unanimously (5-0-0).

b. **Other:**

1. Preliminary discussion re: potential residential development on Windham Road.

J. Roberson explained that the person who made this request is not ready for discussion yet. There was no further discussion.

VI. Unfinished Business:

b. **Other:**

1. Discussion of Zoning Regulation Rewrite: Contractor's yard, Zoning Map, Public Review draft, etc.

Discussion regarding Contractor's Yards:

J. Roberson stated that she added Contractor's Yards as a site plan use to the Industrial Zone and, as suggested by the PZC, she prepared a draft list of criteria that would apply for Contractor's Yards, by special permit, in the RA Zone (dated March 14, 2018). She stated that she had reviewed the draft with Ms. Fraenkel and has incorporated her changes into the draft. She read the definition of a Contractor's Yards which had been previously reviewed by the PZC: A lot or portion of a lot or parcel used to store or maintain construction equipment and other materials in facilities customarily required in the building trade by a construction contractor and excluding on-site sales.

There was discussion regarding research which shows that densely populated areas, that don't pride themselves on their forestry, don't allow contractor's yards in residential areas because of wanting to protect forestry.

J. Roberson explained that she came up with a minimum of five acres because it was the average.

J. D'Agostino clarified that he is not opposed to contractor's yards, but they should not impede upon a residential homeowner having to justify the value of his home because, even though it cannot be seen and even though there may be buffers and it may be set back five acres, even though it may not be visible, when they go to sell that house, that is going to be an issue for that person. Secondly, the RA Zone is 90 percent of the Town, which means that contractor's yards could go anywhere and he can't imagine how this Commission could grab hold of the reigns of that being the case when they get a request that comes before the Commission. He referred to a man who stated that he like it being in the Industrial Zone in the eastern part of the Town. He feels people are not opposed to it because there is a need for these kinds of things in Town. He feels the Commission should be careful where they are allowed because, even if you can't see it and it is buffered, it is there. It will be there whether a person wants to buy a house or sell a house. He said that the Commission should protect the property owners with the decisions that it makes. Ms. Sigfridson stated that Mr. D'Agostino's point is well stated and she asked if he has any suggestions for additions to the standards and criteria for the proposed language that may help if contractor's yards were to be allowed in the RA. Mr. D'Agostino stated that he would need to give it a lot of thought. He mentioned a woman who had complained about noise from diesel trucks running in the early morning hours. He stated that the noise regulations may need to be changed to accommodate truck noise. He stated that there already is a place to put contractor's yards and asked why the Commission is thinking about compromising by allowing them in the RA.

There was discussion regarding the current Industrial Zone. Ms. Sigfridson pointed out that that would only allow for one contractor's yard unless the parcel were subdivided.

Ms. Sigfridson suggested the following change to draft item 6.R.2.5:

- Second and third sentences to be corrected and merged to read: "A security fence must be located on the interior of the buffer strip."

There was discussion regarding the buffer strip. J. Roberson read the definition. There was regarding 30 feet not being enough for the setback and also regarding minimum lot area of five acres and how much could be utilized by the contractor's yard. C. Kelleher stated that she would not be in favor of contractor's yards without a residency requirement and she stated agreement with Mr. D'Agostino's comment regarding property values. A. Tanner stated that he agrees with Ms. Kelleher regarding a residency requirement. Ms. Sigfridson stated that, if the intent is to have a residency requirement, the Commission should be looking at the Home Business Section.

The draft Home Enterprise Section is a carryover from the current one and it doesn't outline the draft criteria. She suggested that the Commission review and incorporate the draft criteria for Contractor's Yards into the Home Enterprise Section. J.D'Agostino stated that this is like trying to fit a square peg in a round hole and that the Commission should look at trying to make it work in the existing Industrial Zone.

J. Roberson stated that, when discussions first started on this topic, she had given town options: Adding it to the Industrial Zone; Adding it to one of the other zones such as RA, looking at Home Enterprise Regulations. At that time, everyone was comfortable with the Industrial Zone. She pointed out that it is a single piece of land and that it is not really a viable option for the contractors in Town:

- Single Ownership (owned by an LLP)
- Difficult Access (which is why she would like to change the zoning on one of the parcels in the PC Zone – to improve access)

Ms. Sigfridson stated that she does not feel strongly one or the other as to whether it should be allowed in the RA. However, she stated that a Planning Commission should want to make opportunities for people who want to do things like this, where appropriate.

A.Kerouac stated that a buyer/client decided not to buy in Brooklyn because they did not want to risk the possibility that a contractor's yard could end up near the property he/she was looking at purchasing. This person had learned of a vote that was taken at a PZC meeting. There was discussion and it was clarified that the vote that had been taken was for Ms. Roberson to draft language, not as to whether contractor's yards were to be allowed in the RA. Mr. Kerouac stated that if contractor's yards would only be allowed in the RA under Home Enterprise (as they are now), he is comfortable with that. However, Mr. Kerouac stated that he would have questions if grand-scale contractor's yards are proposed to be allowed in the RA.

J. Roberson suggested that the Commission think about a Floating Zone which does not have a location until someone proposes one. The applicant would have to apply for a zone change or both a zone change and a special permit. The burden would be on the applicant to show how it is appropriate rather than the PZC showing why it is not appropriate.

C. Kelleher stated that she feels it is too big of an issue to include with the re-write of the Regulations. She feels that a public hearing on this issue alone would be more appropriate. M. Sigfridson agreed. A. Tanner stated that they may get more public opinion if it is part of the re-write. M. Sigfridson stated that it is difficult to come to a consensus on this issue, not only due to differences of opinion, but that it is also a small Commission.

M. Sigfridson asked the Commission if the idea of allowing contractor's yards by special permit in the RA Zone should be set aside for now:

- M. Sigfridson – yes.
- C. Kelleher – yes.
- A. Tanner – yes.
- J. D'Agostino – no. He stated, we have enough to do, it didn't pass, it's done;
- A. Kerouac – agrees with J. D'Agostino, but if tabling it, set aside until after finished with the re-write. He stated that any 5-acre lot in a subdivision could be a contractor's yard (residential development without frontage on a State maintained road). There was discussion. Mr. Kerouac suggested increasing lot size to ten acres to make a smaller pool of lots available for this use. He stated that, regarding contamination (public water and sewer), this is not an area that can handle a lot of run-off. He stated that a farm can have a lot of this equipment anyway and be exempt. There was discussion.

M. Sigfridson stated that Contractor's Yards will be set aside until further notice (J. Roberson may come up with a Floating Zone after the public review draft is completed.)

J. D'Agostino stated that he is not interested in having a Floating Zone as far as contractor's yards are concerned. M. Sigfridson stated that she is interested, but wants to get the re-write done first.

J. Roberson stated that Martha Fraenkel's biggest concern regarding contractor's yards is junk.

Discussion regarding the Zoning Map:

Using the draft by A. Kerouac, J. Roberson added the Paradise Lake Overlay Zone, the Golf Course Overlay Zone, and she made the Neighborhood Commercial Zone on both sides of South Main Street.

Ms. Roberson explained how she modified the boundaries for Neighborhood Commercial:

- She looked at every single parcel to be sure that the parcel line matched reality.
- It includes every parcel with frontage on South Main Street.
- She explained that a few lots that were very long got split (checking with the aerial photo, she chose the most practical/logical places to split).
- She used primarily lot boundaries, but there were a couple of places where a lot was split.
- She did not include South Street Park (which is in R-10).

She offered a more detailed review for Commission Members who may want it.

Ms. Roberson strongly suggests adding the smaller of the Casey parcels.

J. Roberson stated that the EDC and the PZC have expressed that they would like the Neighborhood Commercial Zone to be expanded to be on both sides of South Main Street. C. Kelleher stated that she takes exception to that and explained that the original concern was to make some kind of change to South Main Street so that people could use it for professional offices and save some of the older homes. She is not sure that making all the same zone will make that part of Brooklyn to look like what we want it to look like. There was discussion.

A. Kerouac suggests reducing the Neighborhood Commercial (Day Street).

J. D'Agostino asked for a better presentation of the map that would be more easily understood. J. Roberson explained that, because the Commission had given her five minutes for the Zoning Map discussion, she had not taken the time to set it up. Ms. Roberson set up her actual computer presentation and she oriented by indicating all of the areas/draft NC Zone. M. Sigfridson stated that the Commission had been talking, for years, about making the zoning on the north and south sides of South Street consistent. C. Kelleher clarified that she goes back to before any of the other current Members were a part of the Commission and the original discussion was that the idea of a Village Center District was tossed around. She suggested that Commission Members take a walk in that area. She does not know why the south side was made R-10, but there must have been a reason.

J. Roberson stated that a mistake often made in the past was to make a road a zone boundary (which is easy to create, but is not reality). C. Kelleher feels more thought should be given to it. M. Sigfridson had suggested looking at the Neighborhood Commercial uses and maybe make some changes to them.

C. Kelleher stated that all of the Commission Members are in agreement that both sides of the street should be the same. J. D'Agostino voiced agreement. There were no objections voiced to her statement.

J. Roberson stated that roads could be excluded from the Zoning Map. There was discussion.

There are two lots (condos and age-restricted housing) in the NC Zone that should not be in the NC Zone. They should be R-10.

M. Sigfridson stated that discussion should be ended for the night.

Mr. Kerouac asked that the Commission Members think about some more lots that not be NC. There was discussion.

Public Review Draft:

J. Roberson will make a bulleted list of the bid changes.

VIII. Reports of Officers and Committees:

1. ZEO's Report – See above.
2. Budget – M. Sigfridson asked that the Commission Members review it and bring any comments to the next meeting.
3. Correspondence – None.
4. Chairman's Report – M. Sigfridson will reach out to First Selectman, Rick Ives, regarding getting some new Members/Alternates.

IX. Public Commentary – None.

X. Adjourn

The meeting was adjourned at 9:47 p.m.

Respectfully submitted,

J.S. Perreault
Recording Secretary