

**TOWN OF BROOKLYN  
PLANNING AND ZONING COMMISSION**

**Regular Meeting  
Wednesday, January 6, 2016  
Clifford B. Green Meeting Center  
69 South Main Street  
6:30 p.m.**

**MINUTES**

- I. **Call to Order** – Chair, Carlene Kelleher called the meeting to order at 6:30 p.m.
- II. **Roll Call** – Carlene Kelleher, Michelle Sigfridson, Aaron Kerouack, Craig Dunlop, Donald Francis, David Fuss. Dale Thompson was absent with notice.

Alan Carpenter arrived late.

**Staff Present** – Jana Roberson, AICP, Land Use Administrator; Rick Ives, First Selectman.

- III. **Seating of Alternates** – None.

IV. **Election of Officers**

J. Roberson stated that this is the annual meeting, in accordance with the By-Laws for elections of Officers for one year. She read from the By-Laws regarding election of officers.

D. Fuss opened the floor to nominations for Chairman.

Motion by D. Fuss to nominate Carlene Kelleher. Second by C. Dunlop.

D. Francis closed nominations for Chairman. Motion for Carlene Kelleher for Chairman carried 6-0. A. Kerouack abstained.

D. Fuss opened the floor to nominations for Vice Chairman.

Motion by D. Francis to nominate Michelle Sigfridson. Second by D. Fuss.

D. Francis closed nominations for Vice Chairman. Motion for Michelle Sigfridson for Vice Chair carried 6-0. M. Sigfridson abstained.

C. Kelleher opened the floor to nominations for Secretary.

Motion by C. Dunlop to nominate Aaron Kerouack for Secretary. Second by D. Francis.

D. Francis closed nominations for Secretary. Motion for Aaron Kerouack for Secretary carried 6-0. A. Kerouack abstained.

- V. **Review of Bylaws.**

C. Kelleher stated that A. Kerouack had brought to the attention of the Commission that the description of the Secretary's duties was not reflective of what is being done. The existing language dates back to when there was not appropriate staff to prepare agendas. J. Roberson, after researching, suggested new language (from Middletown) to read as follows:

- Article 5, Section 4 – The Secretary takes attendance and shall read all notices. In the event the Secretary is absent from any meeting, the Officer presiding shall designate an acting Secretary.

C. Kelleher asked the Commission if there were any other suggestions for revisions. There were none.

Four Members of the Commission expressed that they would like to postpone the vote on the suggested amendment to the By-Laws to the February regular meeting. The draft to be sent to all Members in advance of the agenda.

Motion by D. Fuss to close the annual meeting. Second by C. Dunlop. Motion carried unanimously.

#### **VI. Adoption of Minutes:**

1. Regular Meeting Minutes December 2, 2015.

Motion by M. Sigfridson to accept Regular Meeting Minutes December 2, 2015, as presented. Second by A. Kerouack. Motion carried unanimously.

**VII. Public Commentary** – There were no comments from the public.

#### **VIII. Unfinished Business:**

- a. **Reading of Legal Notice** – No new notice.

- b. **Continued Public Hearings:**

1. SP15-008 Strategic Commercial Realty, Incl., d/b/a Rawson Materials; Off of Rukstela Road, Map 29/30, Lot 1/16, RA Zone, 127 Acres; Gravel Removal. (**Application withdrawn**)

J. Roberson explained that the Application was withdrawn because they had to withdraw their Wetlands application because their most recent application to Wetlands did not include all of their activity. She stated that they intend to re-submit both applications within the next couple of weeks.

C. Kelleher stated that she felt it would be a good idea to contact the Town Attorney so the Commission will know what the appropriate action would be to address the concerns discussed by the Commission at the last meeting. D. Francis stated that the question is:

- Can you accept another application for the same gravel bank if they haven't fulfilled their obligations under the first permit (which has expired). It is his opinion that they are in violation of the Regulations.

J. Roberson stated that they are under a Cease and Desist Order for failure to renew their permit in accordance with the Regulations.

Rick Ives clarified that D. Francis' position is that the next step, according to the Regulations, would be to reclaim it, but there is no permit or operations.

Discussion ensued.

Questions to ask the Town Attorney:

- J Roberson will ask about the time frame for reclamation as the Regulations do not address it. The Regulations only address a specific time frame for initiating reclamation activities – area requirement of only five acres exposed at one time.

- D. Francis said that the question to the Town Attorney should be whether they have to close the whole area.
- A. Kerouack stated that he feels the Regulations state clearly that the pit is to be closed once the permit expires and not in the process of renewal. He does not want it to be reclaimed back to a pit if this is treated as a new permit. So the Town Attorney should be consulted whether this should be a renewal or a new permit.
- J. Roberson – Do they have to start reclaiming because their permit expired?
- M. Sigfridson – Do they have to finish reclaiming before the Commission can issue a new permit?
- D. Fuss – If they are not going to reclaim it, is the Commission within its rights to call their bond? J. Roberson will determine if they do have a reclamation bond.

J. Roberson will draft the questions and review with C. Kelleher before contacting the Town Attorney.

M. Sigfridson stated that it had been decided previously that the site should be inspected to determine the status of the pit, whether it is unsafe, and if there are more than five acres open. J. Roberson will schedule a safety inspection with Syl Pauley. Martha Fraenkel could accompany Syl Pauley if she has not already gone out.

R. Ives stated that Rukstela Road has a gate and that Rawson built a berm to prevent 4-wheelers and snowmobiles from getting in because there is an issue with people getting into the site. He stated that it is really important to address this.

D. Fuss consulted with someone in the audience. That person stated that they have to provide and maintain berms to deny access.

J. Roberson referred to the Regulations. There was discussion regarding bonds.

**c. New Public Hearings:** None.

**IX. Other Unfinished Business:**

1. SP15-008 Strategic Commercial Realty, Incl., d/b/a Rawson Materials; Off of Rukstela Road, Map 29/30, Lot 1/16, RA Zone, 127 Acres; Gravel Removal. (**Application withdrawn**) - See above.

**X. New Business:**

**a. Applications:** None.

**b. Other New Business:**

1. Preliminary discussion on Brooklyn Sand and Gravel processing facility.

David Held, Professional Engineer with Provost & Rovero, represented Brooklyn Sand and Gravel and provided handouts (regarding a potential text amendment) to the Commission. Mr. Held explained that discussion began last month regarding a potential, long-term solution for the Brooklyn Sand and Gravel site on Route 205 to allow processing of material on that site without the need to excavate 50 percent of the material that is processed on the site. Three possible solutions:

- A floating zone which would be applicable anywhere in Town where it is appropriate and potentially that site;
- A change to the Industrial Zone for that property;
- A text amendment to existing Zoning Regulations, Article 13 (Gravel Banks).

Mr. Held stated that last month, there seemed to be a consensus among the Commission Members that maybe a zone change to Industrial would be a good idea where processing of goods and

materials would be allowed as a permitted use with a site plan review. However, he stated that J. Roberson feels that a text amendment to Article 13 would be a better approach. He stated that this could be a short-term solution and that the re-write of the Regulations could address a long-term solution with a Business Zone/Park which may be applicable to this use and this property.

Mr. Held explained that they are proposing a fairly restrictive addition to Article 13.54 which deals with processing as an accessory/secondary use to the excavation in the gravel bank. They added a section between Subsection 2 and the old Subsection 3 (which would now be 4), which he read:

- Gravel bank sites with a minimum frontage of 500 feet on a State Highway do not have a limitation on quantities of material imported to the site for processing. The frontage on a State Highway need to be continuous, but it must be under the same ownership as the excavation site and used for all truck traffic entering and exiting the site.

Mr. Held stated that they would like the Commission, Planning Staff and the Applicant to all be on the same page with a solution that will work and they are asking for continued guidance as to what avenue to pursue. He stated that they are proceeding with the special permit renewal process and have submitted information as requested by Martha Fraenkel.

D. Fuss stated that he would like to see the property be reviewed to be turned into Industrial Zone and feels it would be a great benefit to the community.

A Kerouack stated, for the record, that there had not previously been a poll/consensus of the Commission as to which of the three options was the more favorable. C. Kelleher agreed.

J. Roberson explained that their renewal was received before the renewal deadline, but it has not been issued yet. She stated that they have a good processing site, but they are running out of material on site, so they would like to continue processing of imported material. She explained that they would have to apply for a zone text change, then they would have to apply for a new special permit. C. Kelleher stated that she likes this approach and asked if there are any other considerations that should be addressed.

Discussion ensued regarding the 500-foot minimum frontage on a State highway. C. Dunlop suggested that thought should be given to dust caused by vehicular traffic and what the minimum distance should be from the entrance driveway to a residence.

There was a consensus to get rid of the 500-foot minimum frontage on a State highway and just require frontage on a State highway.

D. Francis stated that he has reservations about that because there are houses that are close.

- There should be regulations about asphalt paving all the way to the processor; to restrict dust.
- The neighborhood will hear a lot more noise if there is no limitation on how much material brought in and taken out.

J. Roberson stated that special permit criteria could be utilized. A. Kerouack stated that gravel banks and processing facilities are two separate things and voiced concern regarding whether someone would be able to open a processing facility without have been a gravel bank first.

Discussion ensued. M. Sigfridson stated that the Commission should be free to set a limit to the quantities of material imported for processing. C. Kelleher agreed. A. Kerouack mentioned map changes and looking at the entire picture and stated that he is more in favor of the zone change or the special permit as a stand-alone use rather than a text amendment.

J. Roberson stated that an amendment to the Gravel Bank Regulations (such as this one or something similar) would allow a business, perhaps with some mitigation, to continue to perform processing on that site.

Mr. Held stated that, regarding limitations, it is nearly impossible to enforce/verify.

C. Kelleher polled the Commission: Is the Commission willing to consider a text amendment along the lines as presented?

D. Fuss would be interested in reviewing an application for a text amendment.

D. Francis stated if they want to put it in, put it in.

A. Carpenter (could not decipher his response).

M. Sigfridson sees no reason not to.

C. Dunlop would be happy to look at it.

A. Kerouack agrees with D. Francis and would entertain it when it came to the table.

C. Kelleher said that's all any of the Commissioners can do.

## 2. Preliminary discussion on Potential use of existing chicken coops in VCD.

Paul Archer, Archer Surveying, represented Mark Benard (seated in the audience). Mr. Archer stated that Mr. Pelletier (seated in the audience) is interested in renting a coop for remote-control car racing. He explained that the club consists of about 15 to 20 people, at a time, who get together to race the cars around the track. However, this is not currently allowed in the RA Zone. He offered two potential options:

- Text amendment adding this into the Agricultural Re-Use;
- Take the outlined area, which he indicated on the plan, and zone it into the VCD.

Mr. Archer stated that other inquiries were for an indoor batting facility and an indoor archery facility which are also not allowed in the current zone. He asked the Commission for guidance as to which way to go and he stated that his preference is to re-zone into the VCD which would allow more avenues to rent these coops (rather than storage or professional offices). He stated that either would be a special permit application.

Mr. Archer stated that hours of operation would be Thursdays, Fridays, Saturdays and Sundays from about 3:00 p.m. to 9-10 p.m. with everything taking place indoors. He stated that there is plenty of room for parking.

D. Fuss stated that it is a great use for the building and a great activity for adults and young people.

M. Sigfridson stated that this parcel doesn't seem like a VCD parcel. J. Roberson explained that it doesn't have the historic charm and qualities that you think of in the VCD, but the VCD is a mixed-use zone and the Town is trying to encourage business there. She stated that VCD broadens the options and by just making a change to Adaptive Re-Use of an Agricultural Building is a much more limited approach.

A. Kerouack stated that changing Adaptive Re-Use seems more appropriate than changing the zone of a piece of a parcel. M. Sigfridson agreed. C. Kelleher stated that she has problems with that because she thinks of others that have been approved in neighborhoods. Her concern is regarding traffic. Mr. Archer stated maybe ten cars at one time. J. Roberson stated that traffic/noise could be considered on a case by case basis with the special permit application. J. Roberson stated that the nearest neighboring house would be on Franklin Drive.

D. Francis stated that he feels it should be converted to the VCD as it would open up a lot more options/possibilities. He feels it is a great use. C. Kelleher stated that this would also open up

opportunities for the building next to it. She stated that she favors the zone change to the VCD as well.

A.Kerouack asked if the entire parcel would become VCD. Mr. Archer stated that is correct.

Poll of the Commission:

- D. Fuss – VCD
- D. Francis – VCD
- A. Carpenter – VCD
- M. Sigfridson – Either
- C. Kelleher – VCD
- C. Dunlop – VCD
- A. Kerouack - Changing Adaptive Re-Use

Mr. Archer stated that they will go with VCD.

### 3. Action regarding release of Walmart Performance Bond.

J. Roberson stated that releasing the Performance Bond for landscaping needs action by the Commission. She recommended that the P&Z Commission release 90 percent of the \$250,000.00 Performance Bond in case there are any remaining plants that haven't taken that would need to be replaced. D. Fuss mentioned that there are two dead trees in back and that some trees will eventually grow into the chain-link fence.

J. Roberson reported that Inland Wetlands will take action separately on the \$100,000.00 Performance Bond that they required for storm-water management facilities.

Motion by C. Dunlop to release 90 percent of the \$250,000.00 Performance Bond #090-91441, Item #8378, posted by Walmart Real Estate Business Trust on August 27, 2012, for landscaping improvements required in accordance with Section 11.3 of the Brooklyn Zoning Regulations and included as a condition of approval for Application SPR-08-006 Walmart Real Estate Business Trust on June 23, 2009. Second by D. Francis. Motion carried 6-0. A. Carpenter abstained.

### 4. Continued discussion on gravel bank renewal process.

C. Kelleher stated that there was discussion last month about extending the term of the permits so they wouldn't renew every year and having the renewals come back to the Commission (not for public hearing) for two reasons:

- To keep the Commission more up-to-date on the status of the gravel banks in Town; and
- To let the public know and give them a chance to comment during public commentary about the gravel banks as they come up.

There was information included in the packets to the Commission Members. J. Roberson stated that Glen has drafted a new way to deal with the renewal process and he will explain it at the next meeting. Jim prepared a comparative table of the renewal process in other area towns.

Discussion ensued. C. Kelleher stated that the Commission is in agreement that they want to do something about the renewal process.

### 5. Discussion of 2016 priorities.

2015 Priorities and Draft 2016 Priorities were included in the packets to the Commission Members. J. Roberson reported that some of the 2015 priorities were accomplished. She stated that the draft of the re-write of the Zoning Regulations is available to the Commission Members, but that she had not

thoroughly reviewed it yet. She asked the Commission Members to think of big picture issues for the meeting with Glenn on January 20th (there are small details/procedural/technical things that still need to be ironed out).

C. Kelleher reported on the activity of the Sub-Committee for the Source Water Protection Plan. She said that the emphasis is on education and letting the public know what they can do to protect ground water. As part of that, there will be a regulation to deal with that. Glen has included a draft as a place holder and the Commission will get details as the plan gets finalized by the Sub-Committee. She asked about the Level A Aquifer Mapping.

J. Roberson stated that she has not received any e-mails from the consultants working for Connecticut Water Company. She said they did ground water testing in summer 2014, but she has not received any information yet. She stated that there are two place holders in the draft regulations: one for existing public drinking water and one for potential future public drinking water.

C. Kelleher stated that the big item on the Priorities List for 2016 is the re-write and by doing the re-write they are incorporating a lot of the other priorities.

J. Roberson asked if there were any new concerns that came up while she was away besides gravel banks. There were none brought up.

#### **XI. Reports of Officers and Committees:**

1. Zoning Enforcement Officer Report – Included in the packets to the Commission Members.

C. Kelleher asked if anyone had any issues to bring to the ZEO.

D. Francis asked if anyone had looked at the permit for Brooklyn Farm & Pet because there was some discussion back in the spring (he thinks) regarding activities with loam and mulch piles that were not on the original plan that was approved. He said that, with freedom of speech, you can have as many cigarette (etc.) signs as you want and the Brooklyn Farm & Pet building is covered with all kinds of signs. He stated this was an issue when it was approved. He doesn't think they came in for a change of their site plan.

J. Roberson stated that she will check with ZEO, Martha Fraenkel. She knows that they have diverted considerably from their original site plan.

D. Fuss said that updating would solve a lot of the problems.

A. Kerouack stated that there has been an explosion of signs popping up over the last couple of months. He asked if there was an update on the automotive for an added use. J. Roberson stated that they decided not to. R. Ives stated that they are open and EDC is setting up an appointment to welcome them.

2. Zoning Permit Report December 2015 – Included in the packets to the Commission Members.
3. Budget - Included in the packets to the Commission Members.

C. Kelleher asked when R. Ives will need budgets from the departments. Mr. Ives stated early February.

At this time, J. Roberson stated that Martha Fraenkel had asked her to bring an issue to the attention of the Commission: There was a proposal for an accessory apartment in a detached structure. Peter Alter recommended that under Section 3.4.1, the Commission could determine that it is close enough as a second unit as like a duplex. But, since it is detached, it would be best for the Commission to take action at a public hearing so neighbors would be notified and have the opportunity to comment. She stated one issue is - who would pay for the public hearing. She stated that the Commission has only spent 5 percent of the legal notice budget. A. Kerouack stated that, when it is optional, the applicant should pay. The Commission was in agreement.

A. Kerouack stated that there should be a clear regulation for where these would go. J. Roberson stated Glen included this in the draft. A. Kerouack stated that some should be by special permit. It was decided to earmark this for further discussion.

4. Correspondence – None.
5. Chairman's Report – None.

## **XII. Public Commentary:**

**Linda Trahan**, 26 Maynard Road, voiced concern regarding allowing a gravel bank to become an acceptable use as a straight processing plant in a residential for which there are no specific regulations.

C. Kelleher stated that Ms. Trahan will have an opportunity to speak at the public hearing.

**Another woman, (last name Lukin)** voiced concern that, over the last decade or so, the Commission/Land Use Office hasn't always been up-to-date and has been somewhat lax in enforcement/inspections/making sure that renewals done in a timely way. She is concerned about the five-year renewal that is being discussed. She is concerned that they don't have to keep records/logs/truck tickets or provide evidence of what they have done. She is against the five-year renewal. She hopes consideration is given to the proximity of both areas that permits will be either outstanding or coming in on. She stated that the Commission should consider how we co-exist, not where one takes priority over the other. She asked that the Commission consider that Rawson and Joly are less than a mile from one another. She said that they are handled separately, but the impact is on the same people in the area. She said that the residents have been let down in the past and she hopes consideration will be given to the residents in the future.

C. Kelleher stated that this will come up with the re-write.

D. Francis stated that he expects this to be his last meeting as a Member of the P&Z Commission. He has been involved in the Planning in this Town for over 50 years. He stated that he has enjoyed working with Members of this Commission and with the others in the past and he said that he has faith that this Commission will go in the right direction with the new Regulations.

The Commission Members thanked Mr. Francis for his service on the Commission. C. Kelleher spoke of what a valuable resource Mr. Francis has been. Mr. Francis reminisced and stated that things change and will continue to change.

## **XIII. Adjourn**

Motion by D. Francis to adjourn at 8:42 p.m. There was no second.

Respectfully submitted,

J.S. Perreault  
Recording Secretary