

**TOWN OF BROOKLYN
PLANNING AND ZONING COMMISSION**

**Regular Meeting
Wednesday, May 4, 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 6:32 p.m.
- II. Roll Call** - Carlene Kelleher; Alan Carpenter; Craig Dunlop; David Fuss; Jeryl Mohn; Jules D'Agostino. Dale Thompson was absent with notice.

Aaron Kerouac arrived at 6:34 p.m.

Michelle Sigfridson arrived at 6:35 p.m.

Staff Present – Jana Roberson, Director of Community Development.

III. Seating of Alternates

Motion by C. Dunlop to seat J. D'Agostino as a voting Member in the absence of D. Thompson.
Second by J. Mohn. Motion carried unanimously (6-0).

IV. Recognition of Donald Francis.

On behalf of the Planning & Zoning Commission, C. Kelleher presented Mr. Francis with a Lifetime Achievement Award from the Connecticut Federation of Planning and Zoning Agencies. Mr. Francis was instrumental in the adoption of zoning regulations in The Town of Brooklyn in 1970. He was the first Chairman of the Brooklyn P&Z Commission and served on the Commission for a total of 45 years. Mr. Francis accepted the Award with appreciation.

V. Adoption of Minutes:

1. Regular Meeting Minutes April 6, 2016.

Motion by C. Dunlop to accept the Minutes of the Regular Meeting of April 6, 2016. Second by D. Fuss.

A. Kerouac noted two corrections/additions:

- Page 6, the motion to set the effective date for ZC-16-001. Mr. Kerouac did not abstain, he voted no. Vote results should have been 7-1.
- Page 8, under IX.1. change the following sentence from:
“There was discussion regarding Danielson Glass”
to
“There was a request for a review by A. Kerouac regarding Danielson Glass which was followed by discussion.”

Motion carried unanimously (8-0) with the noted changes.

2. Special Meeting Minutes April 20, 2016.

Motion by A. Kerouac to accept the Minutes of the Special Meeting of April 20, 2016, as presented. Second by C. Dunlop. Motion carried (6-0). M. Sigfridson and A. Carpenter abstained.

VI. Public Commentary

Gregory Lyon, 26 Beecher Road, commented regarding discussion that took place at the April 6th meeting about the upgrade to Beecher Road and about Rawson wanting to haul gravel on Beecher Road and, then, go south on Route 169. He feels this would have a negative effect on the residences on Beecher Road (value/historic character). He asked why the Town would go through with road changes to support private business.

C. Kelleher stated that, at the present time, there is no application before the P&Z Commission. However, if an application is made, she encouraged him to attend meetings and comment. J. Roberson suggested that he contact her Office to be put on the list of people to notify of a public hearing if an application is made.

Don Francis, Wolf Den Road, commented on the following:

- If an application is made regarding the subject of Mr. Lyon's comments, he will attend the public hearing.
- The Selectmen are considering establishing a regional hazardous waste disposal area which would involve traffic from eight towns. He feels Brooklyn does not need that kind of traffic.
- An Ordinance on scenic roads (Bush Hill Road, Spaulding Road, Tatnic Hill Road) was passed in 2005. The Ordinance transferred the responsibility of scenic roads from the Board of Selectmen to the Planning and Zoning Commission (excluding snow plowing, removal of sand, emergency repair). He stated that, according to the Ordinance, the P&Z Commission should consult with the Conservation Commission. He suggested that a couple of people from each Commission ride the roads and check for compliance with the Ordinance.

Recently, on Bush Hill Road, the wooden posts were replaced by metal guardrails without consulting with the P&Z Commission. He asked that the metal rails be removed and replaced with wooden posts. He mentioned another option required by the State for scenic roads which is colored guardrails that fit into the landscape.

He feels the Commission should be keeping a watch on other scenic roads as well: Barrett Hill Road, Herrick Road, Fitzgerald Road, Laurel Hill Road to Elliott Road, and Mason Road. He stated that Spaulding Road is now half asphalt.

C. Kelleher asked that the Ordinance be looked at for the appropriate procedure to follow. R. Ives asked that this item be placed on the next agenda to be discussed.

VII. Unfinished Business:

a. Reading of Legal Notice – No Notice was read into the record at this time.

b. Continued Public Hearings: None

c. New Public Hearings: - None

d. Other Unfinished Business:

1. ZRC16-001 Brooklyn Sand and Gravel LLC; Zoning regulation change to request to amend Article 13 Gravel Banks; Modify Sec. 13.5.4.2, add new Sec. 13.5.4.3 to allow gravel bank sites with frontage on a state highway to propose increased percentage of imported material for processing from 50% to 100% and renumber subsequent sections.

C. Kelleher explained that this is a continuation of the Commission's discussion on this public hearing which was closed last month to consider a text amendment. J. Roberson had been asked to recommend revised language which included the following two suggestions:

- To change "material" to "sand and gravel" where ever it appears in that Section of the Regulations;
- To limit the possibility of processing only to a gravel bank to preclude any stand-alone processing plant from being established anywhere else in the zone.

J. Roberson had provided copies of suggested revised text to the Commission Members.

J. D'Agostino questioned whether a change could be made to the published agenda. A. Kerouac questioned whether the Commission handled the vote on this Application correctly. There was discussion and it was determined that the Commission had proceeded appropriately. A. Kerouac expressed disagreement. C. Kelleher asked if the other Commission Members were comfortable with proceeding. There were no comments made.

C. Kelleher asked if there were any comments regarding J. Roberson's suggested language. J. Roberson stated that the revised language had not been submitted to the Town Attorney who had reviewed the original proposal. At that time, she had relayed his concerns regarding the original proposal which was that this should not be part of the Gravel Bank Regulations.

C. Kelleher stated that her concern is that there is still no time limit. C. Dunlop suggested the following change to 13.5.4.3: remove "(up to and including importation of all material processed on site)" and replace with "(up to an amount not exceeding 2 times or 3 times the amount mined on site based on a calendar year)." He stated that they should keep a record of what is brought in and what is mined. J. Roberson noted that this suggestion had not been discussed during the public hearing and she discouraged implementing a time-based restriction. C. Dunlop stated that he never felt that a time limit was a good idea, but, that he had discussed a limit on amounts at the last meeting.

A. Kerouac stated that the primary means of egress being on a State Highway, not just simply having frontage on a State Highway.

J. D'Agostino still sees it as open-ended. He feels it could take place on any property. He is concerned about it being a new use. He feels that the Consultant hired to do the re-write of the Regulations should include that as part of the re-write.

C. Kelleher asked the Commission Members how they feel about the revised language submitted by J. Roberson and the suggestion by C. Dunlop.

M. Sigfridson feels that it is a step in the right direction and likes C. Dunlop's suggestion.

A.Kerouac asked if “sand and gravel” would exclude the current operation on Route 169 which is permitted as a gravel permit, but it is stone. Would they not be allowed to process because it is not sand or gravel? Discussion ensued.

D. Fuss asked if the Town Attorney can be consulted again for clarification.

C. Kelleher asked for a show of hands for support for J. Roberson’s submitted language:

In Favor: D. Fuss, A. Carpenter.

Opposed: C. Dunlop, A. Kerouac, J. D’Agostino, J. Mohn.

M. Sigfridson and C. Kelleher did not vote.

Discussion ensued.

C. Kelleher asked if there was support for C. Dunlop’s suggestion to allow the amount of processing to increase to either 2 times or 3 times what is mined on site.

R. Ives thinks this is a good idea, but he is concerned with how it would be monitored. He asked that the Commission give this some thought. Discussion ensued. C. Dunlop suggested that weekly tear weights be kept.

C. Kelleher stated that the ZEO should be asked if this is something that can be measured and enforced. She also stated that the Minutes from the April 6, 2016, Meeting should be checked to see if C. Dunlop’s suggestion had discussed to be sure that it does not need to be Noticed again.

M. Sigfridson suggested in Section 13.5.4.3 “up to 2 times or 3 times the material processed on site.” She said this simple and changes the Regulations less than the proposed amendment.

J. D’Agostino stated this is a tough issue. He feels that the Commission should give an answer tonight. C. Kelleher disagreed, however, she acknowledged that the Commission should not drag its feet, but it is important to get the answers to the questions.

A.Kerouack asked if the Commission would be in favor of making a decision without bias because there are going to be changes. He is concerned about getting public input. C. Kelleher is also concerned about public input regarding the increasing of the processing to 2 or 3 times. She would like J. Roberson to consult with Attorney Peter Alter.

Motion by A. Kerouac to table ZRC16-001 Brooklyn Sand and Gravel LLC; Zoning regulation change to request to amend Article 13 Gravel Banks; Modify Sec. 13.5.4.2, add new Sec. 13.5.4.3 to allow gravel bank sites with frontage on a state highway to propose increased percentage of imported material for processing from 50% to 100% and renumber subsequent sections until the Regular Meeting of the Planning and Zoning Commission on June 1, 2016, at the Clifford B. Green Meeting Center, 69 South Main Street, 6:30 p.m. Second by D. Fuss. Motion carried (6-1-1). J. D’Agostino was opposed. A. Carpenter abstained.

VIII. New Business:

a. Applications:

1. SP15-004 (Modification) Danielson Glass and Mirror/Neil Esposito, Jr., 379 Providence Road, Map 41, Lot 119A, PC Zone; Site plan and façade changes post approval.

J. Roberson stated that copies of the original façade (as submitted at the July 21, 2015 meeting) and the façade as it was actually installed were included in the packets to the Commission Members. She also had modified site plans (3 sheets, but only sheet #1 had changes). She provided photographs of the front façade and letters from the Landscaper, GroundScapes dated March 8, 2016, and from Norm Thibeault of Killingly Engineering Associates dated May 4, 2016.

J. Roberson reviewed a list of changes made without permission after approval:

- Drainage basins in rear parking area moved to edge of the pavement (reviewed and approved by Syl Pauley)
- Sidewalk in front of building and landscaped beds were flip-flopped
- Additional handicap access ramp added
- Split block facing on lower 32" of building eliminated (replaced with glass)
- Door added to west entrance
- Tree replacements on rear slope (referred to letter from GroundScapes dated March 8, 2016)

J. Roberson referred to the letter from Norm Thibeault of Killingly Engineering Associates dated May 4, 2016. As-built was required in August 2015 (per the original building permit). Mr. Esposito stated that Mr. Thibeault would provide it by the beginning of next week.

Changes requested by Staff:

J. Roberson explained that the site is drier than anticipated.

- Replacement of ornate planting in rain garden with grass (due to dryness)
- Replacement of rhododendron with hardier Ilex
- Replacement of Cornus florida with Quercus coccinea

Mr. Esposito stated that the above three items had already been replaced and he provided a photograph for viewing by the Commission.

J. Roberson explained that Mr. Esposito was already occupying the building without having received a Certificate of Occupancy or Certificate of Zoning Compliance.

- Replacement of split-block facing with 32" raised masonry beds to match split block and landscaped with hardy shrubs to be approved by Staff

J. Roberson explained that issue of the split-block facing not being built as indicated on the original plans and on the plans submitted for the building permit. She consulted with Lynn Cole-Smith of CME Associates, who stated that it was feasible to build it that way. Ms. Roberson asked Mr. Esposito why he did not adhere to the plans.

Mr. Esposito stated that 4-inch block veneer would not hold up the weight of that curtain wall. It needed to be anchored down towards the foundation, so he came down 30-inches and anchored it to the foundation.

A. Carpenter stated that if something is changed, someone should be notified. Mr. Esposito admitted that he should have, but things were moving along and it slipped his mind. Mr. Carpenter stated that the building is as he had envisioned it when approved. He wants to get this resolved so Mr. Esposito can get to the Grand Opening on May 26th. Mr. Carpenter is inclined to consider the changes as proposed. A. Carpenter's question:

- Storm water system in back – storage system smaller with the two dry wells and 8" pipe.

Mr. Esposito stated it was moved to the back of the parking lot because there was a big swale in the original plan. Trailer trucks were bottoming out.

A. Kerouac stated that they need a Zoning Compliance Certificate before a Certificate of Occupancy can be issued. The whole thing has to be certified as As-Built is what was presented. It is going to be a hard date to hit.

D. Fuss asked if anyone had done calculations on what it was going to take to put the split block in. Mr. Esposito explained that it was all concept and that it had changed three times.

M. Sigfridson stated that it changed because the Commission had concerns about the aesthetics of the building. She stated that some of the changes are significant.

Mr. Esposito stated that the only change in the front of the building is the 32 inches at the bottom (brick). The shrubs that they planted are the same height as what the block is supposed to be and they will be totally filled in in three years.

C. Dunlop mentioned that the building is the way he envisioned it also and he stated that someone had complained to him that, when they were leaving NAPA, they were blinded by the sun reflecting off of the building. Mr. Dunlop stated that he had experienced the same thing twice. Discussion ensued.

C. Kelleher stated that it is not as she had envisioned.

There was discussion regarding composite panel, Spandrel glass, aluminum curtain wall, vents. Mr. Esposito stated that he added more vents for more ventilation (from three to eight). Additional vents is to be added to the list of changes made without permission post approval.

There was discussion regarding the hedges that he had planted upon recommendation by Staff. J. Roberson stated that it was a recommendation and that there must have been a miscommunication because it was not meant for him to plant them right away. She stated that, since the split block was not installed, the suggestion was to have raised planters (she provided photos for samples).

C. Kelleher stated that the suggestions of the Commission have been ignored and that Mr. Esposito made a mistake and that the Commission will accept that. She asked that Mr. Esposito listen to the recommendation of the addition of the planters which would give contrast to the building.

Mr. Esposito stated that the cost of the planters would be \$12,000.00. He suggested getting paneling that looks like brick from Home Depot and sticking it on the front of the building. He said this would look like the split brick face that the Commission is looking for.

A. Kerouac asked why two areas of composite (tenant space and Danielson Glass) were not installed as proposed. Mr. Esposito stated that it is a row of black Spandrel and that it could be replaced with black panel 15 and will look the same as the black Spandrel. Mr. Kerouac noted other changes:

- Two large areas of composite missing;
- No Sunshade;
- The building has two facades (northwest and northeast) – the northeast facade looks completely different than what was proposed:
 - Northeast side showed split block up first 32 inches;
 - Metal wall;
 - No panelized glass wrapping around the northeast side;
 - There were two large, very linear windows – one above and one below;
 - Two additional lights were installed;
 - A door was eliminated on the rear opposite side of the building.

J. Roberson explained that the approval is binding and a Certificate of Zoning Compliance cannot be issued without complying with Zoning approval and a Certificate of Occupancy cannot be issued without a Certificate of Zoning Compliance. She stated that Mr. Esposito must work with the P&Z Commission to avoid a Cease & Desist Order.

There was discussion regarding the changes that were made without reviewing with Staff or the Commission first and also about recommendations that may have been made by the ZEO.

A. Carpenter left at 8:23 p.m.

The Commission was in agreement to have the ZEO check the lighting for safety and decide whether any of the lights should be removed.

M. Sigfridson asked if there was a review by Syl Pauley. J. Roberson stated that he had looked at the drainage basins and was okay with them. A. Kerouac asked about the back slope needing to go back to Wetlands. J. Roberson stated that Martha Fraenkel would be reporting the tree changes to them. She stated that the Rain Basins may need different plants than were originally specified because they are very dry.

D. Fuss stated that if Mr. Esposito dresses up the front of the building, the rest will fall into place. M. Sigfridson and C. Kelleher agreed.

First Selectman, Richard Ives asked the Commission to explain the next step for Mr. Esposito.

J. Roberson stated that he would need specific guidance regarding:

- Raised planters;
- Break-up the facade (articulate);
- Aluminum sunshade/awning (there was discussion regarding when it appeared on the plans);

D. Fuss suggested bonding. J. Roberson stated that Martha Fraenkel and John Berard have been discussing that because it is not good that the building is being occupied without a Certificate of Occupancy. They are waiting for the outcome of this meeting. Their only option may be to require a bond.

There was discussion regarding composite panels that could be clipped on, vents, sunshade/awning for safety.

A. Kerouac stated changes made without permission post-approval all need to be addressed. He feels the changes suggested by Staff focus on landscaping and need to go beyond landscaping.

M. Sigfridson asked if the changes made without permission are things that the Commission can modify. J. Roberson stated that the Commission can agree with those changes, or not. C. Kelleher stated that the Commission pretty much agreed with everything except for dressing up the building. She stated that if Mr. Esposito would agree to installing the planters, the Commission would be satisfied.

There was discussion regarding other options for the planters because Mr. Esposito stated the cost of \$12,000.00 was a problem for him. Mr. Esposito will get a quote to install raised planters between the doors and on the end. Mr. Esposito said that this is more feasible.

J. Roberson explained that it looks like the Commission and Mr. Esposito are moving toward a resolution and this will help the ZEO and Building Official with their decision as to whether or not a bond will be required.

J. Roberson stated that she has heard from most of the Commission Members that they are willing to agree to the changes provided the planters help break up the front facade (western). A. Kerouac feels the eastern facade needs to be addressed because it is so far from what was proposed and approved (to break up that facade). M. Sigfridson stated that changes don't have to be made just to make it closer to what was approved. There was discussion.

C. Kelleher asked if the Commission was in agreement that all of the changes listed on the action sheet that were made without permission and changes suggested by Staff can all be added to the Site Plan with the exception of the last one (regarding the planters). There was no opposition stated.

C. Kelleher asked Mr. Esposito if he understood what was agreed upon. Mr. Esposito said that he does. He will need to hold off on the final paving until after the planters are installed. He will bring a sample/photo of material to the Special Meeting on May 17th.

The occupancy issue will be handled by the ZEO and Building Official. J. Roberson will report the outcome of this meeting with them and they will probably place a temporary bond so that certificates can be issued pending final certification of Zoning compliance.

Motion by A. Kerouac to continue **SP15-004 (Modification) Danielson Glass and Mirror/Neil Esposito, Jr., 379 Providence Road, Map 41, Lot 119A, PC Zone;** Site plan and facade changes post approval, to the Special Meeting of Tuesday, May 17, 2016, at the Clifford B. Green Meeting Center, 69 South Main Street, 6:30 p.m. Second by D. Fuss. Motion carried (5-1-1). J. D'Agostino was opposed. Mr. D'Agostino stated that it was a Pyrrhic vote. J. Mohn abstained.

b. Other New Business – None.

IX. Reports of Officers and Committees:

1. Zoning Enforcement Officer Report.

C. Kelleher feels that the Commission is losing touch with enforcement and asked if Martha Fraenkel would be able to attend some meetings. J. Mohn suggested not making her wait until the end of the meeting to give her report. J. Roberson will check with Ms. Fraenkel to see if she can come to meetings (when needed).

J. Roberson was asked by Ms. Fraenkel to relay the following to the Commission: Good records are not kept so she spends a lot of time reviewing records to find information. She was researching the Brooklyn Beef & Fish property where there are U-Haul's in the parking lot.

D. Fuss left at 9:17 p.m.

A. Kerouac asked about:

- 7 Providence Road (Episcopal Church - the billboard signs. There was discussion. J. Roberson stated she approved the shed, but not the A-frame sign. A. Kerouac wants to know how they got there.
- Courtesy Ford – It has been over a year since landscaping had been addressed. J. Roberson stated that Martha Fraenkel is aware that she needs to follow up with them.
- Nutmeg's Truck (which is a sign) violates the Regulations. J. Roberson stated that she had monitored it for a while before her maternity leave and the truck comes and goes. She will speak with them as the Regulations are clear that truck signs count as signs.

J. Roberson stated that the Salvation Army has taken down their banner sign, but has not put up their new sign yet.

2. Budget

J. D'Agostino asked about what is spent on professional services. J. Roberson stated attorney's fees, CME design reviews, consultant for build-out for Route 6 Corridor. Mr. D'Agostino suggested adding \$1,000.00 to hire a clerk of the works to do inspections.

A. Kerouac stated that he is unclear on who does what between J. Roberson and Martha Fraenkel and he feels it would be helpful for Martha to attend meetings. M. Sigfridson suggested special meetings. C. Kelleher will check with Martha.

3. Correspondence – None.

4. Chairman's Report

C. Kelleher asked if there is anything that can be done to prevent what has happened with Danielson glass. C. Dunlop suggested a checklist/schedule. J. Roberson stated that there was some confusion regarding responsibilities between herself and Martha Fraenkel which they are working together to correct.

J. Mohn suggested that there be some burden placed on the owner to make periodic updates to the Commission. C. Dunlop suggested having them sign a statement on the approval.

There was discussion regarding plans being to scale vs. concept drawings.

X. Public Commentary – None.

XI. Adjourn

Motion by J. D'Agostino to adjourn at 9:40 p.m. Second by A. Kerouac. Motion carried (6-0).

Respectfully submitted,

J.S. Perreault
Recording Secretary