

PLANNING AND ZONING COMMISSION
TOWN OF BROOKLYN
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PLANNING AND ZONING COMMISSION
TOWN OF BROOKLYN
CONNECTICUT
SPECIAL MEETING MINUTES
May 17, 2010
Clifford B. Green Memorial Center
69 South Main Street
7:00 p.m.

RECORDED VOL. PAGE
Liona A. Mainville
TOWN CLERK BROOKLYN CT

I. Call to Order: The meeting was called to order at 7:04 p.m.

II. Roll Call: Carlene Kelleher, Deane Rettig, Craig Dunlop, Al Sandholm, Barbara Repko, Don Francis, Paul Camara and David Fuss.

III. Seating of Alternates: None.

IV. Other Business:

Chairman Kelleher stated she spoke earlier with Paul Archer who is representing Sandra Rukstela on the discussion of the miniature golf and he is going to be delayed and will not arrive until 8:00 p.m. Therefore Chairman Kelleher asked for a motion to move this item on the agenda after Reports of Officers and Committees.

Deane Rettig asked if it would be easier to table item #1 of Other Business to later in the meeting and go through item #2 of Other Business and then table Other Business until later in the meeting rather than moving something under a different category. Chairman Kelleher was in agreement with this.

A motion was made by Deane Rettig to move item #1 of Other Business to item #2 and to move item #2 of Other Business to item #1. David Fuss seconded this motion. No discussion held. All in favor. The motion passes unanimously.

2. Discussion of ground mounted solar panels, Geoffrey Westfall, 150 Hartford Road.

Commission members took a moment to review Attorney Peter Alter's memorandum dated May 10, 2010, with regards to the installation of ground mounted solar panels. A copy of this memorandum is available for review by the public in the Planning Office at the Brooklyn Town Hall.

Chairman Kelleher summarized briefly Attorney Alter's memorandum. Attorney Alter considers the solar panels to be accessory structures that would be allowed in an RA Zone for a residence, and therefore, the solar panels would not be a non-conforming use but rather a conforming use in the RA Zone. The fact that the Veterinary Hospital is a legally existing non-conforming use does not change or alter the fact that the solar panels themselves would be considered conforming. Chairman Kelleher stated that a discussion was had with regards to an application coming forth to the Commission. Attorney Alter felt that the Commission cannot impose upon applicants anymore restrictions or procedures that the Commission is not authorized to do by the regulations, therefore an application was not necessary and that the Zoning Enforcement Officer can grant the permit. Ms. Kelleher asked Mr. Dobrowski to sit with Mr. Westfall to review the screening concerns which Mr. Dobrowski has agreed to do.

Craig Dunlop commented that he has a sight concern with reflections from the solar panels onto other properties and would like this to be evaluated and suggests screening be done.

Al Sandholm visited the site and discussed with the commission which way the solar panels would face.

Don Francis commented that it raises the issues of Green Energy and especially solar. Mr. Francis discussed air rights as well as sun rights which could impact an R-10 or R-30 zone. Mr. Francis feels this is something that should be looked into. Mr. Francis also commented on wind turbines. Mr. Francis would like to see this as a future agenda item for discussion.

A motion was made by Deane Rettig to table the remainder of Other Business until after Reports of Officers and Committees. Al Sandholm seconded this motion. No discussion held. All in favor. The motion passes unanimously.

V. Unfinished Business

1. Kennels

Chairman Kelleher recapped comments from the last meeting's discussion of kennels. Half of the members would like to see the commission work on kennel regulations and bring to a public hearing and the other half were comfortable with kennels not being a permitted use at this time. Ms. Kelleher stated that Henry Moses indicated that he might be willing to look at something but he did not want it to be a permitted use right now.

Al Sandholm offers the same opinion that if the regulations were reworked and a certain zone in Town was designated for kennels he would be open to the idea.

Paul Camara commented that he would like to see some regulations first before opposing them. Mr. Camara agrees with Al that certain zones could handle a kennel.

Chairman Kelleher stated that there are a set of regulations for kennels done by a prior subcommittee, i.e., Ms. Kelleher, Craig Dunlop, David Fuss and Geoffrey Westfall and Fred

Vogel. Ms. Kelleher suggests that she, Craig and Dave take a look at these regulations and bring them to the Commission for further discussion.

David Fuss would like to see the kennel regulations be brought to a public hearing for the resident's opinions.

Discussion held with regards to a specific zone for kennel regulations with minimal acreage and setbacks.

Chairman Kelleher will gather subcommittee members to discuss and review the prior set of kennel regulations.

VI. Planning Priorities

1. Last Green Valley Grant: Deane Rettig updated the Commission that the decision was made last Friday and none of the three applications from the Town of Brooklyn were approved. Mr. Rettig stated that the grants issued were not for workshops or 1-2 day kind of activities but were for more "brick and mortar." Mr. Rettig will be making an appointment with the Grant Representative, Lois Bruinooge to find out what the comments were on the Town's Grant Applications and what other avenues could be investigated.

2. Contingency Funds: Chairman Kelleher stated that there is a proposed \$10,000 in contingency funds for this year's Planning and Zoning budget.

3. Discussion on Planning Priorities: Chairman Kelleher commented on focusing on the PC Zone and a Route 6 Build Out. Jim Larkin commented that Mark Goetz is working with GIS mapping and the PC Zone is approximately three quarters of the way finished. Dave Fuss asked if Mr. Goetz could come up with something preliminary that can be used.

Dave Fuss commented on the expansion of the VCD Zone to include the complete boundary of the Ross property and the expansion of the VCD more up or down Route 169.

Don Francis commented that there is no recommendation at this time coming from the POCD with regards to the VCD boundary expansion. Mr. Francis agrees with Mr. Fuss on expanding the VCD Zone to include the Ross Property. Mr. Francis would like to look at other options on how to retrieve input on long term development of the Ross Property. One way might be with a landscape architect class from U-Conn to take on and analyze as a planning exercise. Mr. Francis stated the Ross Property is a critical piece of property and if suggestions can be offered to whoever ends up with the property this would be good planning strategy.

Al Sandholm commented the VCD Zone is his top priority however, both the PC Zone and the VCD Zones are important issues to discuss and improvements made to the regulations. Mr. Sandholm feels the center of Town should be protected. Mr. Sandholm agrees to square off the jogs in the VCD Zone.

Dean Rettig agrees with Al Sandholm but would like to see the Energy/Green be worked on at the same time.

Chairman Kelleher commented on Green/Energy and having Jim Larkin, NECCOG Planner investigate and bring more information forth to the Commission to review. As far as the VCD a Ms. Kelleher recommended forming a small ad hoc committee to sit down and give direction to this issue and come back to the Commission. David Fuss, Don Francis, Al Sandholm and Deane Rettig agreed to volunteer for this subcommittee.

Chairman Kelleher commented that the Regulation Subcommittee is working on revising the Planned Commercial Zone with information received from the Route 6 Committee. Mr. Larkin is working on the basic document and going through the definitions which would be ready by the latter half of next week. Mr. Larkin will notify Ms. Kelleher when this is ready for review.

Discussion was held with regards to the \$5,000 that was earmarked for the Green Valley Grant. Now that the Grant has been denied, questions were raised as to what will happen with this money. David Fuss who is liaison to the Board of Finance will discuss this issue with them and report back to the Commission.

Deane Rettig asked Chairman Kelleher what other planning priorities there might be. Ms. Kelleher commented on Commercial Park Regulations, the Route 6 Build Out, Green Energy Generation, Kennels, and Subdivision Regulations. Ms. Kelleher would like to see the zoning regulations reviewed and redone.

David Fuss would like to see more protection given to the Scenic Byway and Route 6.

Jim Larkin commented with regards to the Route 169 Byway. Approximately 3-4 years back NECCOG had gotten a grant from the Last Green Valley to create an overlay zone for the Route 169 Corridor. Mr. Larkin also commented that NECCOG had applied to the Scenic Byways Corridor to update the management plan. Mr. Larkin will investigate this issue more and report back to the Commission. Discussion held.

Al Sandholm suggested a format change to the way the regulations are written. Discussion held.

David Fuss commented that the gravel regulations have been approved by the subcommittee. Tom Doherty has the final copy. Mr. Fuss would like the final copy presented to the Commission so they may be acted upon as there are some gravel permit renewals coming up soon. Chairman Kelleher will contact Mr. Doherty for the final copy of the gravel regulations and this will be put on the agenda for next month's regular meeting.

A motion was made by Deane Rettig to move item #1 Other Business before Reports of Officers and Committees. Al Sandholm seconded this motion. No discussion held. All in favor. The motion passes unanimously.

Other Business

1. Discussion of miniature golf, Sandra Rukstela, 170 South Street, Brooklyn Country Club.

Chairman Kelleher read into the record the memorandum received from Attorney Peter Alter dated May 10, 2010. A copy of this memorandum is available for review by the public in the Planning Office at the Brooklyn Town Hall.

Paul Archer from Archer Surveying represents Ms. Rukstela. Mr. Archer thanks the Commission for pushing the item off until later on the agenda. Mr. Archer gave a history of the Golf Course. The Golf Course was built in the 1950's and has been a Golf Course and Club House prior to any zoning. The Town zoned the Golf Course side as RA, the Club House side is in an R-30 Zone. In the 1980's with approval of the Commission, a bar and restaurant was built in the R-30 Zone. Sometime later the deck was built so that expanded it even more. The Golf Authority took over the Golf Course and installed an ice skating rink. The Golf Authority also installed lights with the Commission's approval. In the winter the Golf Authority was allowed to do cross country skiing. Mr. Archer points out that these are examples of the non-conformities going on. Now with the miniature golf installed this has to come to a halt. Mr. Archer stated that presently on the Golf Course there are 25-30 acres undeveloped and if an expansion of another golf hole was proposed this cannot be done. If the Pro Shop wanted to expand to get bigger to allow for more merchandise this cannot be done.

Mr. Archer discussed with the Commission swapping the use of the ice skating rink in the winter months with the miniature golf in the spring/summer months.

Mr. Archer discussed with the Commission dropping down the floating zone acreage which now requires 100 acres. The total on both sides of the Golf Course are approximately 79 acres.

Mr. Archer stated the Driving Range side is in an R-30 zone which could be approximately 24 house lots. The owner, Mr. Richard Regis, would like the future of the Golf Course to stay as a Golf Course. Mr. Archer feels that the Golf Course is a great asset to the Town.

Mr. Archer stated that the real concern is to find a mechanism to allow the miniature golf to go on because with the present regulations the Pro Shop, Restaurant, Driving Range and the Golf Course cannot expand. If the Golf Course cannot expand it may not be able to survive.

Chairman Kelleher asks for a sense from each commission member on their opinion with regards to this issue.

Deane Rettig stated he likes the idea of expanding with the miniature golf course, but tries as a commission member to stick to the regulations. Based on what Attorney Alter is recommending the only method would be the swapping of the ice rink for the miniature golf as long as the area is not enlarged. A special permit would be required to show the swapping of the uses which would happen each season.

Don Francis questioned Mr. Archer whether the ice rink came before the Commission. Mr. Archer stated that he believes that it did. Chairman Kelleher and Mr. Francis do not recall this,

however, Mr. Larkin can check into the Town Hall records with regards to what has been permitted for the site. Discussion held.

Chairman Kelleher stated that a change in use has to be one that is less non-conforming than the other.

Dave Fuss commented that he would look at this as a special permit. Through a special permit what the Commission looks at is health, safety, and welfare of the community, i.e., does it increase the traffic and is there some sort of a safety issue that would present itself. The other issue is how to solve the long term zoning designation on that piece of property, i.e., modify the floating residential recreation regulation to allow the 70 acres not 100 acres.

Chairman Kelleher commented that the Golf Course is a benefit to the Town and perhaps a revision of the existing regulation or a new regulation that would permit a Golf Course in the Town would be considered.

Ryan Brais commented that he would like to see the Country Club continue and it is one of the closest uses to Open Space. If the Golf Course and Country Club fails it will go to a developer. Mr. Brais agrees with modifying the floating zone and drop down the acreage. Mr. Brais suggests the Commission look at this as an "intensification" of a non-conforming use. There is no expansion; the miniature golf is going on the lawn between the parking lot and the club house. Mr. Brais stated that it is not causing any traffic problems, neighbors are not complaining about it and feels it is safe to say that this is an "intensification" for this one particular use, it is seasonal and it can be removed. A site plan can be required for this.

David Fuss commented that the issue can be solved easily with a special permit.

Chairman Kelleher questioned Mr. Fuss on his comment with regards to a special permit as this is not a permitted use. Discussion held. Ms. Kelleher likes the idea of "intensification" but feels it does not fit the definition of "intensification" and is stretching it.

Paul Archer asked Chairman Kelleher if swapping the use of the ice skating rink with the miniature golf would make sense. Ms. Kelleher stated that the use is changing and a change of use is allowed if it is less non-conforming.

Jim Larkin referred to Attorney Alter description as not seeing miniature golf as being recreational, but as entertainment, where as ice skating would be seen as more recreational. Discussion held.

Dick Regis stated that the Golf Course was in operation for 15 years before it was zoned non-conforming. Mr. Regis would like to know why this happened. Chairman Kelleher stated that this predated zoning and as soon as the zoning regulations were adopted any use that was covered would be considered non-conforming. Mr. Regis asked why it was not zoned properly to begin with. Ms. Kelleher stated that none of the current Commission members were involved with that decision and this was done by a prior Commission.

Don Francis is in favor of decreasing the acreage and creating a floating zone. Discussion held.

Al Sandholm commented that he feels that this is a like use. Dave Fuss and Deane Rettig agree with Mr. Sandholm.

Sandra Rukstela stated that she is a certified physical education educator and miniature golf is a recreation activity and is not entertainment. This deals with eye- hand coordination; it can be used for introducing putting techniques and strategies as well as for physically and mentally handicapped children.

Al Sandholm asked if there was a complaint with regards to the miniature golf.

Chairman Kelleher stated that there was not a complaint, but was brought to the attention of the Commission by the Zoning Enforcement Officer. Mr. Dobrowski wrote a letter to Ms. Rukstela stating that this was not a permitted use.

Mr. Larkin stated that there were two letters in last month's ZEO report that addressed this issue. At the last meeting the issue of the non conforming use was discussed and that is why Attorney Alter's opinion was sought.

Chairman Kelleher stated that it is being discussed because it is not a permitted use according to the regulations, but the Commission is trying to find a way that they can help. Ms. Kelleher stated that the Commission has to be careful with whatever decision is made and they are convinced that it is the right thing to do.

Mr. Larkin referred to Article 14.4 where the applicant would apply for a Special Permit and the Commission would make the determination as to whether it was a "like swap." Discussion held.

Ryan Brais commented that a special permit for the miniature golf would take about 2 months minimum for approval time which will take up a good portion of the season. There has been no formal complaint or formal violation. There is nothing saying that the ZEO has to enforce the regulation.

Deane Rettig stated that the commission cannot grant permission.

Chairman Kelleher stated that according to the regulations in the past the Commission has passed along the enforcement of the regulations to the First Selectman.

Selectman Tanner stated that the regulations clearly state that this is not a permitted use at this time. Mr. Tanner feels that some of the solutions may work. Mr. Tanner spoke with regards to consistency with enforcement.

Paul Archer stated he will submit an application for special permit by the next meeting that shows the differences and will work on the Text for the overall picture.

Chairman Kelleher asked if anyone objects to this. Mr. Fuss is in favor but his concern is with the overall goal of achieving some sort of final status for the Golf Course and the open space.

Don Francis asked if a cease and desist has been issued. Mr. Larkin stated no cease and desist has been issued. Mr. Dobrowski issued two letters to Ms. Rukstela. The first letter was asking Ms. Rukstela to come in and speak with Mr. Dobrowski regarding the issue and the second letter informed Ms. Rukstela that the issue was on the May 5, 2010 agenda and any work done on this project during the interim will be at your own risk. Both letters were included in the ZEO report of the May 5, 2010 meeting. Discussion held.

VII. Reports of Officers and Committees:

1. MMUDD Regulations: Mr. Larkin briefly went through the changes that were made to the regulations.

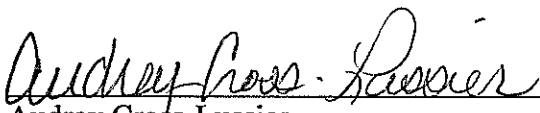
A motion was made by Deane Rettig to table the MMUDD Regulations until the next special meeting to give Commission members a chance to review. David Fuss seconded this motion. Discussion held on the motion. All in favor. The motion passes unanimously.

VIII. Public Commentary: None.

IX. June Meeting Dates: The regular meeting date of Wednesday, June 2, 2010 will be rescheduled to Thursday, June 3, 2010 as a special meeting to be held at the Clifford B. Green Meeting Center at 7:00 p.m. The date of the meeting is being changed due to the Town Budget Meeting being held on June 2, 2010.

There will be no second special meeting scheduled for the month of June per the Commission.

X. Adjourn: A motion was made by David Fuss to adjourn the meeting at 9:10 p.m. Al Sandholm seconded the motion. No discussion held. All in favor. The motion passes unanimously.


Audrey Cross-Lussier
Recording Secretary