

2014-07-02 P&Z Minutes

Tuesday, July 08, 2014

Planning & Zoning Commission Town of Brooklyn Regular Meeting

**Wednesday, July 2, 2014
Clifford B. Green Meeting Center
69 South Main Street
7 p.m.**

MINUTES

- I. Call to Order** – Chair, Carlene Kelleher, called the meeting to order at 7:01 pm.
- I. Roll Call** - Carlene Kelleher, Donald Francis, David Fuss, Aaron Kerouack. Derek Wesolowski. Craig Dunlop arrived at 7:05 pm. Deane Rettig and Michelle Sigfridson were absent with notice.

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

- II. Seating of Alternates** – None.

II. Adoption of Minutes:

- 1. Regular Meeting Minutes June 4, 2014

Motion by D. Fuss to accept the Minutes of Regular Meeting of June 4, 2014 as presented. Second by A. Kerouack. Motion carried unanimously.

- 2. Special Meeting Minutes June 17, 2014.

Motion by D. Fuss to accept the Minutes of Special

Meeting of June 17, 2014 as presented. Second by D. Wesolowski. Motion carried unanimously.

III. Public Commentary

Tom Rukstela stated that he owns property with 2000 feet of frontage on Old Tatnic Hill Road. He expressed concerned about what would happen with his property (which is appraised with the frontage) if the proposed section of Old Tatnic Hill Road is discontinued. He stated that he is the largest land owner on that Road and he doesn't want to lose the ability to subdivide it.

Jeff Weaver stated that he is closing tomorrow on a 56 acre property with 75 feet of frontage on Old Tatnic Hill Road and he is concerned about his investment and the future of that property.

C. Kelleher stated that the Commission would address their concerns during the appropriate time on the Agenda, and that if their questions could not be answered, they would try to get answers back to Mr. Rukstela and Mr. Weaver.

Steve Goulter of The Learning Clinic asked if there would be a quorum for the July 15th meeting.

C. Kelleher stated that Deane Rettig would not be attending. She stated that Michelle Sigfridson had responded that she would attend. Four of the six Commissioners present stated that they would be attending, one was not sure, and one could for a short time, if needed, to make a quorum.

IV. Unfinished Business:

- a. Reading of Legal Notice** – Read by J. Roberson. She stated that it had been published June 20, 2014 and June 27, 2014 in the Norwich Bulletin.

b. Continued Public Hearings – None.

c. New Public Hearings:

1. SP14-003 Pierce Memorial Baptist Home, 44 Canterbury Road, Map 24, Lot 148, VCD Zone, 24.12 Acres; Handicap Access Ramp.

C. Kelleher opened the public hearing.

Due to procedural errors with the required abutters' notices, D. Fuss moved to immediately table and continue the public hearing on Application SP14-003 Special Permit in VCD for Pierce Baptist Home, 44 Canterbury Road (Map 24, Lot 148) to the Special Meeting of the Planning and Zoning Commission to be held on July 15, 2014 at 7:00 p.m. at the Clifford B. Green Memorial Building located at 69 South Main Street, Brooklyn, CT. Second by D. Francis. Motion carried unanimously.

2. SP14-004 The Learning Clinic, 464 Pomfret Road, Map 27, Lot 7-7A, RA Zone, 31 acres, 2,880 sq. ft. greenhouse (accessory use to a Private School).

C. Kelleher opened the public hearing.

Due to procedural errors with the required abutters' notices, D. Wesolowski moved to immediately table and continue the public hearing on Application SP14-004 Special Permit in RA Zone for the Learning Clinic, 464 Pomfret Road (Map 27, Lot 7-7A) to the Special Meeting of the Planning and Zoning Commission to be held on July 15, 2014 at 7:00 p.m. (following the preceding public hearing) at the Clifford B. Green Memorial Building located at 69 South Main Street, Brooklyn, CT. Second by D. Fuss. Motion

carried unanimously.

d. Other Unfinished Business:

1. SP14-003 Pierce Memorial Baptist Home, 44 Canterbury Road, Map 24, Lot 148, VCD Zone, 24.12 Acres; Handicap Access Ramp. Continued.
2. SP14-004 The Learning Clinic, 464 Pomfret Road, Map 27, Lot 7-7A, RA Zone, 31 acres, 2,880 sq. ft. greenhouse (accessory use to a Private School). Continued.
3. SPG14-001 Strategic Commercial Realty, Inc. d/b/a/ Rawson Materials, Rukstela Road and Allen Hill Road Extension, Map 30, Lots 12 A, 15, 16, 17 and 18, RA Zone; Removal of earth materials from site.

C. Kelleher stated that this Application was received last month and that a public hearing should be scheduled for August. D. Francis asked about the timing. J. Roberson explained that there are 65 days from date of receipt and that August 6th will be within that time.

Motion by D. Wesolowski to schedule a public hearing on Application SPG14-001 Gravel Special Permit in RA Zone for Strategic Commercial Realty, Inc. d/b/a Rawson Materials, Rukstela Road and Allen Hill Road Extension (Map 30, Lots 12A, 15, 16, 17, 18) for the next regular meeting of the Planning and Zoning Commission to be held on August 6, 2014 at 7:00 p.m. at the Clifford B. Green Memorial Building located at 69 South Main Street, Brooklyn, CT. Second by Craig Dunlop.

D. Francis asked if the Application is complete. J. Roberson explained, for the record, that the

Application is very deficient, but that it has been received. She stated that she has met with the representatives of the Applicant, she has identified serious deficiencies, and it is likely that the Applicant will withdraw this Application and re-apply. D. Francis expressed concern that the public would not have enough time to view materials submitted. J. Roberson stated that there is material available in her office for the public to view, although deficient, and she explained that statutory requirements must be followed. J. Roberson also stated, for the record, that the Application submitted was for five lots on Map #30 according to the Assessor's map and lot system. J. Roberson stated that she believes that there are actually more parcels involved.

D. Wesolowski asked if it could be posted on the website in the event that this Application was withdrawn so that the public would know in advance rather than finding out at the meeting. J. Roberson stated that it could be done.

Motion carried unanimously.

V. New Business:

a. Applications:

1. SP14-005 Joseph J. Steele, 15 Providence Road, Map 29, Lot 139-1, VCD District, .75 acres; Hair Salon, Commercial Kitchen for catering only, wedding chapel for very small weddings, private residence.

Motion by D. Wesolowski to schedule a public hearing on Application SP14-005 Special Permit in VCD, Applicant Joseph J. Steele, hair salon, commercial kitchen, wedding chapel, private residence, and minor exterior renovations and landscaping at 15 Providence Road (Map 29, Lot 139-1) for the next regular meeting

of the Planning and Zoning Commission to be held on August 6, 2014 at 7:00 p.m. at the Clifford B. Green Memorial Building located at 69 South Main Street, Brooklyn, CT. Second by D. Fuss.

D. Francis asked if there would be changes to the outside of the property.

J. Roberson stated that they split off a parcel and that this property qualifies for a free cut.

Joseph Steele stated that he has been in business for 25 years in East Lyme, CT. He has renovated buildings from the 1800's and would like to fix up and enhance the building (painting, staining, re-roofing) staying within Town guidelines. He stated that there would be no major changes, but, later on, he would like to add a carriage house in back with a small gazebo and wrought iron fencing.

Proposed low-profile businesses:

- Small weddings. Mr. Steele is a Minister.
- Hair restoration salon (medical patients with hair disorders/diseases)
- Commercial kitchen for catering

J. Roberson stated that a site plan and photos of statuary and fencing had been submitted.

Cindy Smith, Mr. Steele's fiancé, explained some renovations to the interior including windows, doors and balcony. She also stated that the lights in the front of the house would be replaced by a chandelier on the front porch. Ms. Smith submitted some photos/information to J. Roberson.

J. Roberson stated that there would be a sign

replacing the LaSalette sign which is there now.

A. Kerouack asked if there would be a shared driveway because of the split.

J. Roberson stated that there would not be any driveway on this lot. There would be access easements (identified on the lot-split plan) which would give the occupants of this house the right to use the driveways on either side. J Roberson stated that she would want to see documentation prior to approval.

Motion carried unanimously.

A. Other New Business:

1. MI14-001 Discontinue approximately 2,800' of Old Tatnic Hill Road starting from a point on Old Tatnic Hill Road that is 550' southwest from the intersection with Mason Road through to the intersection with Tatnic Hill Road.

J. Roberson explained and provided copies of 8-24 Referral of the CT General Statutes to the Commission Members.

J. Roberson explained that the Town has not maintained this portion of Old Tatnic Hill Road for approximately 76 years and she recommends the discontinuance. She stated that this is a lovely walking trail, but she would not drive a vehicle on this road because of its condition. She would hope to acquire some pedestrian easements over this area for the future. She explained that under the proposal, the Town would continue to maintain the end at Mason Road, but not the proposed portion for discontinuance (from the last driveway from Old Tatnic Hill Road to Mason Road). She assured the Commission that both Mr. Rukstela's and Mr. Weaver's properties have

frontage on actual Town roads that are maintained and that they would, additionally, have a perpetual right-of-access over this old road bed. She stated that they would not be disallowed from riding their vehicles on the road nor would any frontage be cut off.

J. Roberson stated that the P&Z Commission needs to decide whether it approves or disapproves of the proposed discontinuance, and then it would go to Town meeting for the voters to decide. She explained that if the Commission collectively disapproves, it would change the required voting procedure.

A.Kerouack asked if two of the property owners would be losing frontage of a Town road. J. Roberson stated technically yes, but functionally no, because it's not really a travelled way and you can't drive there. Up to the make-shift turnaround would not be discontinued, but the virtually unpassable part beyond that would be discontinued.

D. Fuss stated that he had not realized that this would impact other property owners and that he would like to have time to think more about the whole procedure.

J. Roberson explained how this proposal would affect/not affect property owners.

D. Francis asked First Selectman, Rick Ives, to give a briefing on the Selectmen's discussion on this issue. Rick Ives stated that a title search had been done to determine if the Town owns it, and if the Town owns it, in what manner was it acquired. Information learned from the title search:

- The Town did not take deed to that road
- It was used as a road in the 1800's

- By default, because of maintenance, the Town had responsibility for the road

R. Ives stated that around the time of 1938, it was longer maintained. He stated that they don't want it as a thru road; they don't want to have to maintain it; they thought that it may have been abandoned, but found out that it was not legally abandoned; and they feel it is a good time to discontinue it. J. Roberson added that it is not on the list of Town roads that the DOT maintains. D. Francis stated that there is a drainage property. J. Roberson stated that it would require a lot of work to bring it up to Town road standards. She stated that it doesn't have a bed like a modern road does.

D. Wesolowski asked what the benefit of the discontinuance is. J. Roberson stated that taxpayer's won't be forced to pay to allow a private developer to build houses. D. Fuss stated that if the discontinuance is not approved, a private developer could not be asked to improve the road, the Town would be responsible. D. Fuss stated that would severely impact the potential for development of that property. J. Roberson stated that, if it were a thru road, there would be some public benefit to that, but a dead-end road has no public benefit and would be a defective drive way.

Motion by D. Francis to approve the proposal to discontinue approximately 2100 feet of Old Tatnic Hill Road starting from a point on Old Tatnic Hill Road that is 550 feet southwest from the intersection with Mason Road through to the intersection with Tatnic Hill Road. Second by C. Dunlop.

D. Francis stated 2100 feet in his motion, however, the total number of feet proposed to be discontinued is

2800.

A. Kerouack voiced concern about recommending the discontinuance because of creating two land-locked parcels, other like roads in Town, and also the impact on the parcels where the owners would have functional access. He questioned whether, if a property were sold, would the future owners not have access? J. Roberson explained that all property owners on the road have perpetual right-of-access which carries over to subsequent owners. She also explained that it would prevent this from being considered frontage as per the Zoning and Subdivision Regulations.

D. Fuss asked if they would have the ability to improve that road. J. Roberson stated that she thinks so. If they wanted to build a road, they would have to either build it on their half or have an agreement with the other owners of the other halves. R. Ives asked if it would be to driveway standards or road standards. J. Roberson said (after discontinuance) it depends if it is a road or a driveway. She stated that whether it is a private road or a public road, it still has to be built to Town road standards to qualify as a road. If it is a driveway, they only have to meet driveway standards.

Discussion ensued.

Motion carried 4-0. A. Kerouack was opposed. D. Wesolowski abstained.

VI. Reports of Officers and Committees:

1. Zoning Enforcement Officer's Report June 2014.
 - Notification of Civil Penalty issued to Courtesy Ford dated June 24, 2014 (included in the packets to the

Commission Members). Compliance date of July 15, 2014.

- Cease and Desist Orders to Rawson Materials/River Junction Estates LLC, dated June 26, 2014; and to Paul Sansoucy dated June 30, 2014 (included in the packets to the Commission Members).

2. Discussion of Route 6 Build Out.

J. Roberson stated that she spoke with Landscape Architect, Paula Stall, who has done the built-out analysis for North Windham (which has similar qualities to Route 6). J. Roberson asked the Commission Members to think about what they feel a build-out should entail to pin down the scope of work. She mentioned that a goal of the build-out could be a map of what is envisioned.

D. Fuss stated that he would like the Commission to meet with Paula Stall at least once to give her direction.

R. Ives asked how the Commission sees this fitting in with the re-write of the Regulations. C. Kelleher stated that she feels it could be done concurrently. J. Roberson agreed.

D. Francis mentioned making the regulations user friendly on the web. The other Commission Members were in agreement.

R. Ives stated that he agrees that they should find a way to make it as technologically advanced as possible, but he reminded the Commission that the approval (\$27,000.00) was for review and re-write of the Regulations so that should be the main focus.

A. Kerouack asked if the area where Allen Hill meets Route 6 and also access on and off Day Street within a certain distance from Route 6 would be able to be addressed by Paul Stall. J. Roberson stated that it may be better to get an engineer involved with major transportation changes.

3. Wal-Mart Update.

- J. Roberson stated that Wal-Mart has a conditional Certificate of Zoning Compliance and that the major outstanding issue right now is that the detention basin is not functioning as planned. It has not been determined why it is not working. She met onsite with the design engineer and the Wal-Mart representative where they discussed ways to fix it: mucking out the basin; a pipe to connect the two basins which would allow the water to equalize from basin to basin. Wal-Mart is working on a proposal.
- There are no other issues.
- Lighting plan submitted.
- Sound plan submitted.
- Replaced the cedars that died.
- A portion of the Performance Bond could be released shortly, some is being retained to be sure the basin will be working properly.

4. Correspondence.

- Notice from the Connecticut Sighting Council: 2 cell towers that will probably have another antenna on them (Brown Road and Tatnic Hill).
- Information from PLANNERS LISTSERV regarding modification of special permit.

5. Regulations Subcommittee – Nothing.

6. Route 169 Recommendations Follow-up Subcommittee

J. Roberson suggested that this be removed from the agenda and take the drafts and roll it all into the Zoning Regulations re-write.

7. Budget-Update on fiscal year end funds

J. Roberson reported that there were some funds remaining in the Professional Services Fund, some of which were used to purchase a large format scanner as a compliment to the new permanent management system.

8. Chairman's Report – None.

VII. Public Commentary

Tom Rukstela stated:

- Map is wrong.
- Road is only maintained to the second corner off of Mason Road.
- The second house does not get done.
- Owns about 2000 feet of road frontage. Appraisal/land value is on road frontage and will be knocked down to nothing.
- Listed as an unmaintained road. He is not asking the Town to maintain it.
- If he wanted to subdivide across the end of the property, he couldn't if it is discontinued.
- On a private driveway, three lots are allowed per driveway. There are eight lots on this road. You can't do that without it being a road. He can only get three lots off his frontage on Mason Road. How do you get eight houses down a private driveway.
- This is going to a Town meeting without asking abutters for their opinions.
- He has asked why Saveway has been allowed to use a gravel parking lot for two years.
- He only asked for a simple apron for his own parking lot.

D. Fuss explained to Mr. Rukstela that the Town meeting is where his comments should be made to the public

regarding the proposed discontinuance.

C.Kelleher stated that D. Francis had reported to her regarding the Saveway situation and that it is on J. Roberson's list of things to address.

Linda Trahan, 26 Maynard Road, asked for clarification of the Cease and Desist that has been issued to Rawson. J. Roberson stated that they must cease all activities until the proper permits are obtained.

VIII. Adjourn

Motion by D. Fuss to adjourn at 8:52 pm. Second by A. Kerouack. Motion carried unanimously.

Respectfully submitted,

J.S. Perreault
Recording Clerk