

2014-06-17 P&Z Spc Mtg Minutes

**Planning & Zoning Commission
Town of Brooklyn
Special Meeting
Tuesday, June 17, 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 7:03 pm.
- II. Roll Call** - Carlene Kelleher, Michelle Sigfridson, Deane Rettig, Craig Dunlop, Donald Francis, David Fuss, Aaron Kerouack. Derek Wesolowski arrived late.
Staff Present – Rick Ives, First Selectman.
- III. Seating of Alternates** – None.
- IV. Public Commentary** – None.
- V. Unfinished Business:**
 - a. Reading of Legal Notice** - None.
 - b. Continued Public Hearings** - None.
 - c. New Public Hearings** - None.
 - d. Other Unfinished Business:**
 1. SD14-001 Jeff Weaver, Tatnic Hill Road, Map 15, Lot 5 RA Zone, 8-Lot Subdivision.
Paul Archer, Archer Surveying LLC, represented the Applicant. Mr. Archer went over changes to the plans:
 - Deed for 25-feet from center line of the road (Boundary Survey – Sheet #2 of Plans) will come in with the mylars

- All open space will stay with Lot #5-8
- Hatched open space area

Mr. Archer stated that the abutters were notified, but there has been no response. The Declaration of Permanent Restrictions and Covenants was reviewed by Land Use Attorney, Peter Alter. Mr. Archer stated that Mr. Weaver would not see a problem with putting a note on each of the deeds as suggested by Attorney Alter.

Motion by Deane Rettig to approve Application SD14-001 Jeff Weaver, Tatnic Hill Road, Map 15, Lot 5, RA Zone, 8-Lot Subdivision as submitted including the application form and all ancillary materials including, but not limited to, the plans titled "Conservation Subdivision Application Proposed 8 Lot Subdivision, Tatnic Hill Road, Brooklyn, CT, Property Owner/Applicant: Jeff Weaver, Prepared by Archer Surveying, Sheets 1-6, Dated April 2014, Revised June 2014." with the following conditions:

Prior to or simultaneous with the recording of the Subdivision Plans,

- 1) The plans shall be revised to clearly demarcate and identify the acreage that is to be bound by the Declaration of Permanent Restrictions and Covenants, and
- 2) Approximately 10,904 square feet of land along Tatnic Hill Road shall be permanently transferred to the Town of Brooklyn for the purposes of road right-of-way and recorded by deed in the office of the Brooklyn Town Clerk, and
- 3) The Declaration of Permanent Restrictions and Covenants as revised by the Commission's attorney on June 17, 2014 shall be recorded in the office of the Brooklyn Town Clerk, and
- 4) All deeds for subdivision parcels shall contain the language specified in said Declaration and drafts shall be provided to the Land Use Administrator at time of recording, and
- 5) All stonewalls along Tatnic Hill Road shall only be altered as

necessary to create a driveway opening and all endwalls shall be repaired to the same condition as before opening.

Second by D. Fuss. Discussion.

D. Rettig amended #4 in his motion to read, All deeds for subdivision parcels shall contain the language specified in said Declaration and drafts. And drafts shall be provided to the Land Use Administrator prior to the time of recording. D. Fuss seconded the amended motion.

Motion, as amended, carried unanimously.

VI. New Business:

- a. Applications - None.**
- b. Other New Business:**

1. Discussion and potential action regarding an interpretation of the Zoning Regulations concerning an agricultural accessory use (greenhouse) to a Special Permit use (private school) in the RA Zone.

Attorney, Beth Bryan Critton, Shipman & Goodman LLP, stated that she has been asked to assist The Learning Clinic with the application (if for other than a building permit) to approve the greenhouse. She mentioned that Barbara Ducharme was in the audience, if needed, to answer questions regarding the historical use of the school properties.

Steve Goulter, The Learning Clinic, 476 Pomfret Road, gave a presentation of The Learning Clinic's properties in Brooklyn, where the school buildings and residences are located, where the farm (with animals) is located, where the greenhouse would be located, as well as the locations of existing gardens and hayfields. He stated that they would like to provide a farm-to-table program for the students and that the whole area was farmland when purchased.

Mr. Goulter stated that since the property is RA Zoned, he feels

they are within their rights to do something agricultural on the property without having to go to the Commission for approval. He stated that they have proceeded and have already signed with contractors and the greenhouse is built and ready to ship, but the foundation is needed.

Attorney Critton referred to the letter from Raymond W. Ducharm, PhD., Executive Director of The Learning Clinic, dated June 16, 2014, which speaks of the historical farming use of the property. She referred to the Zoning Regulations, the POCD and the Right To Farm Ordinance. She stated that they are proposing a greenhouse in conjunction with their farming program. She asked that, if it is decided that special permit is needed, the process be expedited so that the greenhouse would be able to be put into use for this season.

C. Kelleher stated that the application could be accepted with the site plan this evening and that public hearing could be set for the July 2, 2014 meeting (depending on which way the Commission decides and the required publications in the newspapers).

Discussion ensued regarding the history of The Learning Clinic properties with Barbara Ducharme.

C. Kelleher mentioned that Attorney Alter commented that it is not a legal question for the Commission to determine, it is a question of fact. Whether or not the use of the greenhouse is going to be predominantly agricultural or predominantly an educational program for the school.

Attorney Critton stated that the regulations say that a greenhouse is a farm use. She said that the zoning principle, “the user of land vs. the use of land,” applies here. She stated that zoning is about the use of land, not about the user of land.

Discussion ensued.

Motion by A. Kerouack to determine that the addition of an agricultural accessory use (greenhouse) to a Special Permit use (private school) in the Residential-Agricultural Zone is an activity requiring Special Permit approval. Second by Michelle Sigfridson.

Vote: C. Dunlop – yes; D. Francis – no; D. Fuss – no; A.

Kerouack – yes; D. Rettig – yes; M. Sigfridson – yes; D. Wesolowski – yes; C. Kelleher – yes. Motion carried 6-2.

Discussion ensued.

There was a brief recess at 8:25 pm while the letter dated June 16, 2014, from Raymond Ducharme of the Learning Clinic was revised (at the bottom) by Attorney Critton to serve as special permit application to be submitted with the site plan. Meeting resumed at 8:27 pm.

Motion by Michelle Sigfridson to accept (in accordance with Section 5.4 – Application) the Application by The Learning Clinic, 464 Pomfret Road, for Special Permit for a greenhouse based on the site plan and letter from Raymond W. Ducharme, Ph.D, The Learning Clinic, dated June 16, 2014, amended (June 17, 2014) by Attorney for the Applicant, Beth Bryan Critton, which were submitted at the June 17, 2014 Special Meeting of the Planning & Zoning Commission. Application fee to be paid at Town Hall on June 18, 2014. Second by C. Dunlop.

Vote: C. Dunlop – yes; D. Francis – abstained; D. Fuss – yes; A. Kerouack – yes; D. Rettig – yes; M. Sigfridson – yes; D. Wesolowski – no; C. Kelleher – yes. Motion carried 6-1.

Motion by D. Rettig to set a public hearing for Special Permit Application by The Learning Clinic, 464 Pomfret Road, for a greenhouse, for Wednesday, July 2, 2014, 7:00 pm, at the Clifford B. Green Meeting Center, 69 South Main Street. Second by Michelle Sigfridson. Motion carried unanimously.

2. Discussion regarding the Zoning Regulations re-write.

C. Kelleher reported:

- Budget was approved along with the capital budget with \$27,000.00 item for the consultant to do the revisions to the Regulations. She is not sure of the timetable.
- She asked that the Commission thoroughly go through the Zoning Regulations to come up with suggestions for

changes/improvements.

- She suggested having a public workshop to get their suggestions.
- This will be on the agenda for August.

There was a consensus not to form a subcommittee.

Rick Ives stated that re-write doesn't mean starting over. He said that the consultant would need to hear the philosophy of the Commission and then it would evolve with a focus on consistency and gaps. He feels this could be accomplished for \$27,000.00.

VII. Reports of Officers and Committees:

1. Regulations Subcommittee – No report.
2. Chairman's Report.

C. Kelleher reported:

- Part-time Zoning Enforcement Officer approved in the budget.

VIII. Public Commentary – None.

IX. Adjourn

Motion by D. Fuss to adjourn at 8:44 pm. Second by D. Rettig.
Motion carried unanimously.

Respectfully submitted,

J.S. Perreault
Recording Clerk