

2014-05-07 P&Z Reg Mtg Minutes

**Planning & Zoning Commission
Town of Brooklyn
Regular Meeting Minutes
Wednesday, May 7, 2014
Clifford B. Green Meeting Center
69 South Main Street
7 p.m.**

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

Staff Present – Jana Roberson, AICP, Land Use Administrator.

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

- IV. **Adoption of Minutes:**
 - 1. Regular Meeting Minutes April 2, 2014.

Motion by D. Rettig to approve the Minutes of Regular Meeting of April 2, 2014, as presented. Second by A. Kerouack. Motion carried 6-0. Carlene Kelleher abstained because she had not attended that meeting.

- V. **Public Commentary** – None.

- VI. **Unfinished Business:**

- a. **Reading of Legal Notice** – None.
- b. **Continued Public Hearings** – None.

c. New Public Hearings – None.

d. Other Unfinished Business – None.

VII. New Business:

a. Applications:

1. SPR14-002 Stephen Donahue/Carelot Childrens Center, 86 South Main Street, Map 47, Lot 13, NC Zone, 0.61 acres; Addition to existing daycare 900 sq. ft.

Stephen Donahue, Carelot Childrens Center, presented plans for the proposed one-story addition to include one preschool classroom and a bathroom to accommodate up to twenty additional students and two additional employees. This would bring the total employees to ten and total student count to sixty-four. He also provided photographs of the back of the existing building.

J. Roberson read a letter from Melissa Bergeron, Vice President of Carelot Childrens Center, into the record.

J. Roberson stated that the requirement for sixteen parking spaces could be met with five on the side of the access drive, at least six in the back, and another five along the rear of the building. Setbacks were measured at 18 feet. The handicap ramp will remain unchanged. She explained that the Applicant is requesting a complete waiver of the entire site plan and survey requirements.

D. Retting asked about lighting and hours of operation.

Mr. Donahue and Melissa Bergeron answered that there is existing exterior lighting on the back of the building (which lights the parking lot) as required by the Health Department. Mr. Donahue stated that there would be lighting on the exterior of the addition also. He showed where construction fencing would be.

J. Roberson stated that there is no additional approval needed from the WPCA.

D. Francis asked about drainage from the parking lot.

J. Roberson explained that there is a drainage ditch (riprap/swale) along Route 6. Mr. Donahue stated that it all runs above ground to

the back of the property. There are no catch basins. J. Roberson explained, for the record, that there is a retaining wall (built out of tires) along the northern/back property line abutting State land (Route 6) where there is a culvert which directs the water flow under Route 6. She stated that she has not seen any evidence of erosion or flowing water along the retaining wall.

J. Roberson will check if permission is needed from the State for more water to be directed under State property.

D. Wesolowski expressed concern for parking. Melissa Bergeron stated that parking has never been an issue largely due to the staggered drop off and pick up times. She stated that staff come and go during the day and that two employees will be moving to Killingly.

Motion by D. Rettig to accept the Application SPR14-002 Site Plan Review Stephen Donahue/Carelot Childrens Center, 86 South Main Street, Map 47, Lot 13, NC Zone, 0.61 acres; 900 s.f. addition to an existing daycare. Second by D. Francis. Motion carried 7-0.

Motion by D. Rettig to approve all requested waivers of the site plan requirements (4.5.1 Survey Class A-2, 4.5.2.3 Location Map, 4.5.2.4 Easements, 4.5.2.5 Proposed Buildings/Uses, 4.5.2.6 Parking, 4.5.2.7 Signs and Lighting, 4.5.2.8 Utilities, 4.5.2.9 Drainage, 4.5.2.10 Topographic Map, and 4.5.2.11 Open Space & Landscaping) for the Application SPR14-002 Site Plan Review Stephen Donahue/Carelot Childrens Center, 86 South Main Street, Map 47, Lot 13, NC Zone, 0.61 acres; 900 s.f. addition to an existing daycare. Second by D. Francis.

Discussion ensued regarding striping the parking spaces since that five of them are in a gravel area. Mr. Donahue suggested that a one-foot marker could be placed on the edge of the asphalt delineating the location of those five spaces.

Discussion ensued regarding plowing snow in winter.

Motion carried 7-0.

Motion by D. Rettig to approve the Application SPR14-002 Site Plan Review Stephen Donahue/Carelot Childrens Center, 86 South Main Street, Map 47, Lot 13, NC Zone, 0.61 acres; 900 s.f. addition to an existing daycare with the condition that striping be added to the

parking area in order to show sixteen spaces. Second by C. Dunlop. Motion carried 7-0.

b. Other New Business:

1. SD13-002 Rene Barbeau, Map 33, Lot 35-1, RA Zone, 1 Lot Re-Subdivision – extension requested with filing of the mylars.

J. Roberson stated that the request was received April 29, 2014, from Paul Archer as the Agent on behalf of Rene Barbeau. An extension had been granted, but they were not able to meet that deadline. She explained that the full 180-day extension would bring the deadline to May 25, 2014, to file the mylars.

Motion by A. Kerouack to approve the request to extend the filing deadline for Re-Subdivision SD13-002, 263 Allen Hill, Map 33, Lot 35-1 to May 22, 2014 [last day the Town Hall will be open before May 25]. Second by M. Sigfridson. Motion carried 7-0.

2. Review of Rawson Materials Gravel Bank Renewal. (Letter dated April 24, 2014 from Linda Trahan).

J. Roberson stated that a letter (dated April 24, 2014) had been received from Linda Trahan, 26 Maynard Road, regarding the fact that Rawson Materials has been operating without renewing their gravel permit since the last renewal was granted on March 10, 2011. Ms. Roberson stated that she has drafted a letter to send to Rawson Materials as well as others in Town that are also out of compliance. The letter will notify them of the violation and requests that they come into compliance and that they will have to submit a new application for special permit. She explained that this would give them two weeks to contact her and come up with a schedule for re-applying.

Discussion ensued.

Linda Trahan stated that this has been a long standing problem for the people that live on Maynard Road and Wauregan Road in Canterbury, as well as, the lack of enforcement of the regulations. She stated that Rawson, instead of improving Beecher Road, made a haul road and travel on Maynard Road and Wauregan Road which is in violation of the conditions of their permit. She stated that the residents have the right to enjoy their homes and to have their property values protected and asked the Commission for very strict

oversight of this situation.

J. Roberson offered understanding of Ms. Trahan's concern and stated that, within minutes of watching the activity on Maynard Road, she saw 15 fully-loaded gravel trucks go by. She stated that she very seriously considered a cease and desist order, but considering how previous violators had been handled, she decided to first send a notice of violation with a strict time limit. She stated that she is becoming aware of the other violations to the 2010 permit approval such as the improvements to the Beecher Road intersection, haul road to the south, improvements to Rukstella Road, and that all truck traffic was to use the route of Rukstella Road to Beecher Road to Route 169. She stated that these issues could be examined as part of the renewal process.

C. Kelleher thanked Ms. Trahan coming forward with this.

Ms. Trahan expressed appreciation to Ms. Roberson and the Commission for looking into this situation.

Discussion ensued. D. Rettig, C. Dunlop, and C. Kelleher expressed that they feel stronger action would be appropriate. J. Roberson stated that there hasn't been enforcement over the years.

M. Trahan stated that she has been before the Commission multiple times, Rawson is blatantly violating the regulations, and she is asking for help. J. Roberson stated that it is a typical first step to notify of the violation. She stated that a cease and desist order may be issued in the near future. She assured Ms. Trahan that steps are being taken to make Rawson correct the situation that they have created. D. Rettig agreed with Ms. Roberson's approach. C. Dunlop disagreed. C. Kelleher stated that she would not be uncomfortable with treating the Rawson situation differently than others who are in violation of renewing, since Rawson not only did not renew, but violated the expired permit. M. Sigfridson suggested issuing a cease and desist order to Rawson for just the activities (using the haul road) that are in violation of the expired permit.

J. Roberson stated that she prefers to follow protocol and go through the steps to give them a chance to do it the right way.

D. Francis stated that if the businesses continue to operate (without filing for a new permit) after they receive the letter from Ms.

Roberson, no permit should be approved without completely closing their existing operation and reseeding it as the regulations require. He stated that he would like legal advice as to whether the Commission can deny or adjust a permit on an individual when he has access without coming onto a Brooklyn Town road. J. Roberson stated that she would get clarification. She stated that a restoration plan is required as part of the application. Ms. Roberson will check with the Town Clerk's office regarding the filing of a reclamation bond.

Discussion ensued.

Pam Lukin, 28 Maynard Road, stated that she feels the Commission and J. Roberson have been more than friendly to the gravel haulers by not enforcing the renewal of permits and not collecting fees for those permits. She stated that the residents should not have to police the situation and that it is part of J. Roberson's job.

D. Wesolowski stated that Ms. Roberson is doing her job by sending the letter.

D. Rettig asked if they can require the applicant to pay the fees for the renewals that have not been filed (when they come in for new special permit application). C. Kelleher suggested that J. Roberson call the Planning and Zoning Commission's Attorney, Peter Alter, to get the answer as to the best way to handle the situation. She stated that the Town needs to be prepared to impose fines and take legal action if necessary.

C. Kelleher stated that there would be another opportunity for public commentary later in the meeting.

3. Review of Zoning Permit Revision.

J. Roberson referred to a revised Zoning Permit form which had been provided in the packets to the Commission Members for their consideration.

- Space was provided for Applicant's Name, Phone Number, Street Name & Number.
- On opposite side, the last paragraph has been added regarding (Public Act No. 03144 Section 1. Subsection (f) of section 8-3of the GCS).

C. Kelleher suggested clarifying so applicants will know that the

second item above is not required.

There was a consensus among the Commission to authorize J. Roberson to make the statement more user-friendly, but consistent with the Statute. She will bring it back to the Commission for approval.

VIII. Reports of Officers and Committees:

1. Zoning Enforcement Officer's Report April 2014.

J. Roberson reported:

- Courtesy Ford painted their parking areas and David Smith of KWP had certified that the requirements were met but noted a discrepancy in the marking of the fire lanes. The manager of the store is parking in the fire lane. There was discussion regarding the painting of the display area. J. Roberson stated that the lines outlining the vehicle display areas had not been painted. She will contact KWP and the owner of Courtesy Ford.

J. Roberson continued:

- Letter received from KWP dated April 28, 2014, regarding FCR Realty LLC application for gravel permit.

2. Wal-Mart Update.

J. Roberson reported:

- She met on site with the landscape architect on May 7, 2014. All of the cedars died. They don't transplant well. They will suggest a new evergreen species to replace them for consideration.
- Some corrective work was done in March on the eastern detention basin which is completely full of water right now. She discussed this with the Town Engineer and he will send a letter stating that the Town wants to oversee work being done and the bond will not be released until it is corrected.

Discussion regarding the storage of snow during winter.

D. Francis asked if a date had been set for replacing the plants. J. Roberson stated that the warranty walk has not happened yet. They

want to replace the cedars and other dead plants as soon as possible. When she receives the suggested replacement plant species, she will e-mail with photos to the Commissioners to get their feedback so that they can get planted as soon as possible.

D. Rettig asked about Brooklyn Farm & Pet. J. Roberson spoke with the owner about the mini farmers' market. He knows that he could come back for a special permit application. The original site plan was unachievable because the mulch storage area was not in a practical location and it did not work for them. D. Rettig stated that it is in complete disarray from the site plan. J. Roberson will work with him about submitting a special permit modification. She anticipates that this would happen before winter.

A. Kerouack asked about permanent yard sales/junk yards. J. Roberson stated that she has not issued any notices of violation or cease and desist orders yet, but she does intend to as time permits.

C. Dunlop asked about barn sales. Discussion ensued. C. Kelleher stated that they will need to keep an eye on anything requiring a permit for event facility.

3. Correspondence.
4. Regulations Subcommittee.

C. Kelleher clarified that she had not tried to call a meeting of the Regulations Subcommittee. They have not met because they have been waiting for J. Roberson to give them something from the VCD that doesn't require a lot. She stated that there are funds in the budget for professional services and she would like to get Jim Larkin of NECCOG involved because he was in a position to help them wrap it up quickly. She stated that if J. Roberson and the Subcommittee could meet with Jim, she feels they could finalize it quickly. She asked if a Member of the Commission would volunteer for the Subcommittee. A. Kerouack volunteered.

5. Route 169 Recommendations Follow-up Subcommittee.

D. Rettig stated he will be on vacation, so he may not be able to meet during this month.

D. Francis suggested sending a letter of thanks to the gentleman who finished Friendship Valley. He also suggested yearly awards to

recognize those who make improvements to the Town. J. Roberson suggested collaboration with the Historical Society. A. Kerouack stated that he will bring it up at their meeting tomorrow. J. Roberson suggested involving the EDC also. C. Kelleher will mention it to Rick Ives, First Selectman.

D. Rettig suggested looking at language from Windham's zoning regulations for signs because he feels their description for banners, balloons, etc., would work for Brooklyn. J. Roberson will distribute the paragraph.

A planning meeting was scheduled for Tuesday, May 20, 2014, Clifford B. Green Meeting Center, 69 South Main Street, 7 p.m. D. Rettig stated that he will not be able to attend.

IX. Public Commentary:

- Norm Thibeault, Killingly Engineering Associates, asked for clarification from the Commission on a section of the regulations regarding a unique situation that he has never come across before.

Section 3.3 Lot Area Regulations, "All construction shall take place within the buildable area."

The property is a lot on Brown Road that qualifies for a free split. The property had been a tree farm and used for agricultural purposes dating back to at least 1938. There are no suitable areas for septic systems within the buildable areas because the health code requires that septic systems be built in virgin soil. Flat stones had been removed from the soil, mixing it all up for the first 3 to 3 ½ feet. Beyond the buildable areas, there are nice test pits in undisturbed, virgin soil. However, if the buildable area is extended out to those areas, the slopes exceed the slope criteria.

Mr. Thibeault stated that when a permit is obtain to install a septic system it is considered an installation permit, not a construction permit. He asked the Commission to consider whether a septic system is considered construction under the regulations.

Discussion ensued.

There was a consensus among the Commission Members that a variance would be needed to locate the septic system outside the buildable area.

- Denise Cormier, 182 Wauregan Road, Canterbury, (across from LaFramboise property), stated that she assisted Canterbury's Planning & Zoning to count trucks, notarize and file paperwork so they could issue a cease and desist order for the 300 to 400 trucks that were travelling the haul road every day. She stated that a judge recently ordered that the haul road is accessible and could be used. She stated that it is contingent upon Brooklyn allowing it. She read part of the stipulation. She asked the Commission Members to be diligent with their decision. She stated that there is no agreement with her, no offer on the table, no monetary gain. C. Kelleher asked for a copy. Some Commission Members expressed interest in reading it.
- Attorney, Ernest Cotnoir, Putnam, CT, representing Rawson Materials and LaFramboise Sand & Stone, distributed copies of the settlement agreement (map attached) that was approved on Monday, May 5, 2014, by Judge Boland, Superior Court. This was a negotiated settlement and the parties met with Judge Bishop in Norwich over several months/sessions to get as many trucks off of Wauregan Road in Canterbury and Maynard Road in Brooklyn as is possible. He stated that the stipulation sets up a series of guidelines that allows Rawson and LaFramboise to operate at a reduced level now, pending creation of the southerly haul road. The gravel would come out of the Brooklyn pit, cross Wauregan Road in Canterbury, then go along the haul road completely on private property until it comes out again on Maynard Road about 50 feet from its intersection with Route 205 in Plainfield, avoiding all of Maynard Road except those 50 feet, all of Wauregan Road except to cross it. The limiting factor is that this haul road, to be successful, needs to cross a couple thousand feet of State land. Rawson had attempted once before to get those permissions and the State (then

DEP) indicated that they would not give that permission at that time because the proposal that was drafted called for the haul road to be too close to the river. The proposed map shows a new location for the haul road which would be well away from the river and they are hopeful that it will satisfy DEEP. They are in the process of applying to DEEP for approval. They will be submitting it next week. They hope to get it going immediately.

He stated that the stipulation provides for limited truck traffic on Wauregan Road in accordance with pre-existing permit levels. If permission is obtained from the State, then they would re-apply to Canterbury as well as Brooklyn (within the next couple of weeks). If the haul road is approved by the DEEP, then they would re-apply to Canterbury with permits showing that. If DEEP turns it down, they would re-apply to Canterbury for a different proposal with the understanding that if Canterbury says no, then during the appeal process, LaFramboise and Rawson would not be able to operate out of these pits. In the interim, in recognition of the fact that there were some bitter disputes about trucks over a period of time last year, the court has stipulated that the trucks that can use the roads now are limited, and the hauling parties are required to give weekly truck logs to the Town of Canterbury Enforcement Officer. There is a penalty provision of \$1,000/day for any truck in excess of that. He stated that, in the interim, this agreement tries very hard to protect the neighbors and deals more with Canterbury than with Brooklyn and Wauregan Road more than Maynard Road, but there is a lot of overlap. He stated that the hope is to get all of these trucks off of Wauregan Road and Maynard Road. He stated that in 2010 or 2011, they invited then First Selectman Austin Tanner, the P&Z Chair and D. Rettig to an informal meeting because DEP had denied the original request,. They have resurrected it. He stated that they will be submitting a new application for special permit for the Brooklyn piece of it. He wanted to make sure that the Commission had the actual agreement that was approved. He stated that this agreement is a result of countless of hours of negotiations with the help of the

Superior Court.

X. Adjourn:

Motion by D. Rettig to adjourn at 9:52 pm. Second by C. Dunlop. Motion carried 7-0.

Respectfully submitted,

J.S. Perreault
Recording Clerk