

PLANNING AND ZONING COMMISSION
Town of Brooklyn
Regular Meeting
Wednesday, February 4, 2015
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 7:00 p.m.

II. Roll Call - Carlene Kelleher, Michelle Sigfridson, Aaron Kerouack, Alan Carpenter, Craig Dunlop, Donald Francis, David Fuss. Derek Wesolowski was absent with notice.

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

Also Present – Lynn Lacharite, Economic Development Commission (arrived at 8:48 p.m.)

III. Seating of Alternates – None.

IV. Adoption of Minutes

1. Special Meeting Minutes January 7, 2015.

Motion by D. Fuss to accept the Minutes of the January 7, 2015 Special Meeting of the Brooklyn Planning and Zoning Commission as presented. Second by M. Sigfridson. Motion carried 6-0. D. Francis abstained.

2. Regular Meeting Minutes January 7, 2015.

Motion by C. Dunlop to approve the Minutes of the January 7, 2015 Regular Meeting of the Brooklyn Planning and Zoning Commission as submitted. Second by D. Fuss. Motion carried 6-0. D. Francis abstained.

V. Public Commentary – None.

VI. Unfinished Business

a. Reading of Legal Notice – None.

b. Continued Public Hearings

1. ZRC14-003 Zone Regulation Change-Article 2 Definitions and Article 3 District Regulations-Section 3.4.5 Village Center District; Article 10 Signs-Section 10.4 Signs permitted in the Village Center District.

C. Kelleher explained that the public hearing had been opened last month and that there were some minor changes made and that they would review the amended draft.

J. Roberson stated that the changes were posted in the office of the Town Clerk and went over the following changes/suggestions:

- Under the definition of Minor Modification, the last sentence to read: “If the ZEO deems it appropriate after consulting with the Chairman, additionally, they may seek

a ruling from the Commission as to whether or not a proposed activity is a Minor Modification.”

- Under Section 3.4.5.2.2, she suggested making a change that had not been discussed at the January 7th meeting: Adding at the end, “or deemed to have less neighborhood impact than a previously permitted use.”
- Under 3.4.5.3 - Permitted Uses (new page 3): She suggested adding (at the request of a local businessman) Tutoring/Educational or Instructional Classes, which would be site plan uses allowed in the VCD. This also had not been discussed at the January 7th meeting.
- Under Section 3.4.5.4 – Special Permit Uses, she suggested adding, Indoor Entertainment (excluding Adult Entertainment). This also had not been discussed at the January 7th meeting.
- Under Section 3.4.5.8.2 - Parking Requirements – Add language from the original VDC Regulations as follows: “. except in the case of a through lot or a corner lot, in which case the Commission, upon application for a special permit, may permit parking in any front yard upon satisfaction by the applicant of all of the standards for the grant of all special permits set forth in Article 5 of these regulations.” She reminded that the front yard is ten feet from the property line into the parcel along the road, not the entire area between the building and the road.

A.Kerouack asked for clarification regarding the Tutoring/Educational or Instructional Classes because it is not really tangible like a type of office. J. Roberson stated that her opinion is that any kind of instructional classes would be consistent with the goals for the Zone and comparable to the other permitted uses. C. Kelleher stated concern for uses that would generate traffic. Discussion ensued. C. Kelleher suggested adding language to allow the Commission to use some discretion with similar uses that would not have additional impact on the neighborhood or community. J. Roberson mentioned that there is another town that uses the language, “and other uses that are consistent with the zone.” She also mentioned the need to be able to act quickly for the benefit of business owners. C. Kelleher agreed and asked if the other Members of the Commission objected to adding language to be more general.

A.Kerouack voiced concern for adding new things without a definition. M. Sigfridson asked, if the language is put in, how would a use be determined whether it would be a site plan review or a special permit use. C. Kelleher stated that they are split according to the impact on the neighborhood would be (larger impact would be special permit). The language would need to be put in the introductory language of each of the categories. J. Roberson stated that the Town Attorney would need to review it. It was also suggested that maybe the answer would be to make additional uses determined through the special permit process.

Michelle Robillard, 509 Hartford Road, stated that maybe the person who requested that Tutoring/Educational or Instructional Classes be added was just trying to see where they would fit. She feels that adding the verbiage would help.

A.Carpenter stated that he is in favor of adding more items to the list if it gives more flexibility to the ZEO and the people who own property in Town.

It was decided to continue the public hearing to the next regular meeting of the P&Z Commission on Wednesday, March 4, 2015, Clifford B. Green Meeting Center, 69 South Main Street, at 7:00 p.m.

2. ZRC14-004 Zone Regulation Change-Article 2 Definitions-Limited Business Enterprise.

J. Roberson explained that a definition alone could not address all of the issues discussed at the last public hearing, therefore, she reorganized and revised the definition (which includes some language from the chapter on the adaptive re-use of an agricultural building) and came

up with draft regulations/criteria. C. Kelleher stated that the application would need to be withdrawn and the changes would need to be re-noticed.

Motion by A. Carpenter to withdraw the application ZRC14-004 Zone Regulation Change-Article 2 Definitions-Limited Business Enterprise and to prepare a new application ZRC 15-001 Zone Regulation Change for Limited Business Enterprise to include Article 2 Definitions, Article 3 District Regulations Section 3.4.4.4, and Article 5 – Special Permit Requirements Section 5.12. Second by D. Fuss.

M. Sigfridson expressed doubt for the need. J. Roberson explained that Town Attorneys had been consulted and that the outcome was that, since zoning must be uniform within a district (per Connecticut General Statutes), if a district has lots that have frontage on State roads and other lots that don't have frontage on State roads, you're not being uniform within the district by having a regulation that allows one set of uses for the lots with frontage on a State highway and a different set for other lots. So, if it is specifically stated as a special permit use in the definition and that the criteria such as frontage on a State highway was one of the special permit criteria, it would probably be okay. Another suggestion would be to treat it as a floating zone. C. Kelleher stated that the Commission may want to discuss this later.

A.Carpenter amended his motion as follows:

Motion by A. Carpenter to withdraw the application ZRC14-004 Zone Regulation Change-Article 2 Definitions-Limited Business Enterprise. Second by D. Fuss. The amended motion carried unanimously.

3. ZC14-001 Zone Boundary Change-James E. Ingalls, Trustee, Map 34, Lot 39 (portion) 1.19 acres and Town of Brooklyn Map 34, Lot 12 (portion) 2.55 acres.

Paul Archer, Archer Surveying, provided plans for the Commission Members and stated that he is not in favor of a zone line splitting a piece of property, and that this would disturb and decrease the value of Mr. Ingalls' property.

Mr. Ingalls asked the Commission to withdraw/reject the application. He has consulted with a number of people (broker, attorneys, real estate appraiser) and has found all were in agreement that this would have a negative impact on the property especially since the building on the property would be subject to regulations of the VCD. He does not see any benefit to the Town of Brooklyn or the taxpayers. He questioned the reason for the request: Why the need to have all of the historic properties located adjacent to the Village Green to be in the VCD. He does not feel this was the intent of the National Historic Registry. He asked what the benefit would be to the Town of Brooklyn.

J. Roberson explained that it was probably a mistake that the two parcels had been left out. She stated that under the new (soon to be adopted) VCD regulations, it would be easier to make minor modifications to the barn. In addition, it would considerably add to the list of permitted uses. A. Kerouack agreed that it does seem that it was a technical oversight and that the intent of the VCD is to protect the Village Green.

Discussion ensued.

Mr. Ingalls stated that the timing could not be worse because he is trying to sell the property.

C. Kelleher stated that, after hearing that this would have an adverse effect on a property owner, she is willing to reconsider and she asked how the other Commission Members feel. R. Ives stated that he is not sure why the Town piece was included. C. Dunlop stated that he sees no need to split it. D. Fuss stated that he does not see the necessity. A. Kerouac stated that he is torn because the intent of VCD is clear, but splitting a lot into two zone creates way too many problems. M. Sigfridson stated that she feels that, rather than splitting it, the whole lot should be put in the VCD. A. Kerouack stated that he is leaning that way also. A. Carpenter stated that

the application was made without the Ingalls' knowledge, therefore, he is leaning toward leaving it out of the VDC. He asked if the Commission is looking to protect the barn. He stated that if the Ingalls' would rather keep it in the RA Zone, then he is inclined to leave it that way.

Motion by D. Fuss to close the public hearing for application ZC14-001 Zone Boundary Change- James E. Ingalls, Trustee, Map 34, Lot 39 (portion) 1.19 acres and Town of Brooklyn Map 34, Lot 12 (portion) 2.55 acres. Second by C. Dunlop. Motion carried unanimously.

c. New Public Hearings: None.

VII. Other Unfinished Business:

1. ZRC14-003 Zone Regulation Change-Article 2 Definitions and Article 3 District Regulations-Section 3.4.5 Village Center District; Article 10 Signs-Section 10.4 Signs permitted in the Village Center District. Continued to Wednesday, March 4, 2015, Clifford B. Green Meeting Center, 69 South Main Street, at 7:00 p.m.

Motion by D. Fuss to move Agenda Item:

VII. Other Unfinished Business:

3. ZC14-001 Zone Boundary Change-James E. Ingalls, Trustee, Map 34, Lot 39 (portion) 1.19 acres and Town of Brooklyn Map 34, Lot 12 (portion) 2.55 acres.

To before Agenda Item:

VII. Other Unfinished Business:

2. ZRC14-004 Zone Regulation Change-Article 2 Definitions-Limited Business Enterprise.

Second by A. Carpenter. Motion carried unanimously.

3. ZC14-001 Zone Boundary Change-James E. Ingalls, Trustee, Map 34, Lot 39 (portion) 1.19 acres and Town of Brooklyn Map 34, Lot 12 (portion) 2.55 acres.

Motion by D. Fuss to deny the application ZC14-001 Zone Boundary Change- James E. Ingalls, Trustee, Map 34, Lot 39 (portion) 1.19 acres and Town of Brooklyn Map 34, Lot 12 (portion) 2.55 acres. Second by D. Francis. Motion carried unanimously.

2. ZRC14-004 Zone Regulation Change-Article 2 Definitions-Limited Business Enterprise.

J. Roberson went over the draft. She mentioned concern for parking standards and suggested that there be a "catch-all" (determined as needed) category.

C. Kelleher asked if the adaptive re-use of an agricultural building should have its own section. J. Roberson stated that the wording is important and that it should be special permit criteria and may not matter if it is in Article 5 or not.

C. Kelleher stated that the definition is repeated and that maintaining the residential character is mentioned in two places also. J. Roberson stated that the permitted uses were repeated also and that one set could be eliminated.

M. Sigfridson asked if the intent from the last discussion was to take out the "but not necessarily limited to" language, but not explicitly say that only these six uses were allowed. She was hoping that it would not be an all-inclusive list. She feels (for a re-write) that first-floor area not to exceed 2,400 s.f. and that it should be at least a 3 acre lot could be added to the definition. She said that the landscape regulations are already there.

A.Kerouack stated that for 5.12.2.1 he would rather add the acreage requirements for the RA Zone.

It was decided to strike the requirements for 3 acres and the 150-foot frontage (5.12.2.1). J. Roberson to prepare another draft (its own small section subject to all criteria in Article 5 and with specific criteria – on State highway) and forward it to the Commission for their review to be prepared for discussion at the next meeting.

3. ZC14-001 Zone Boundary Change-James E. Ingalls, Trustee, Map 34, Lot 39 (portion) 1.19 acres and Town of Brooklyn Map 34, Lot 12 (portion) 2.55 acres. See Above.
4. Discussion of Zoning Regulations Rewrite.

J. Roberson received six good proposals and will meet with C. Kelleher and M. Sigfridson February 5th to narrow down. R. Ives stated that if more money is needed, he needs to know soon.

5. Discussion of PC Zone Build-Out.

J. Roberson stated that Paula asked for a one-month extension (March 15, 2015) and will give a presentation of the final draft at the Special Meeting of March 17, 2015. She has finished the cost analysis and is working on the design portion.

VIII. New Business:

a. Applications - None.

b. Other New Business:

1. Discussion of additional wall sign at Racine Printing for Nutmeg International.

J. Roberson provided a draft zoning regulation for a sign area swap. C. Kelleher clarified that if a change in regulations is to be considered, it should come before the P&Z Commission in the form of an application made by the applicant to ensure that everyone is treated equally. J. Roberson stated that it is not a proposal at this point and that the EDC had asked if the P&Z Commission would look at it.

Ken Niemann, 573 Wauregan Road, stated that the Town has given Nutmeg International the right to use a portion of the Racine building (change of use). He stated that the regulations allow for him to put up a sign pole. He stated that there is no regulation if a change of use is granted to a building that has two businesses in it for front signage (not enough square feet). He put a banner sign up on the side of the building (facing the closed bank). He wants to put a sign on his portion of the front facade rather than having a pole sign. He is not in compliance with his franchise at this time because there is no visible sign on the front of the building. Their entrance is on the side of the building. He asked the Commission for direction as to whether they would consider an application.

J. Roberson gave an overview.

Lynn Lacharite (EDC) arrived at 8:48 pm and sat in the audience.

D. Francis asked if Mr. Racine would consider adjusting the size of the Racine sign to make enough square footage for two signs. Mr. Racine stated that he would rather not.

Discussion ensued.

There was a consensus among the Commission Members that they would consider an application.

2. Discussion of Landscape Maintenance Services in the RB Zone.

William R. Sweeney, Land Use Attorney with TCORS, spoke on behalf of Dale and Valorie Lyon (133 Wauregan Road). They would like to find an alternative means to resolve the zoning dispute regarding the operation of Mr. Lyon's landscape maintenance business at the rear of his property. They have appealed the cease and desist order to the ZBA. They have discussed options for resolve with J. Roberson:

- Apply for Home Enterprise Permit – Would create substantial changes to operations, would not address issues with immediate neighbor, and would adversely impact some of the residential nature of the property.
- Exploring relocating the landscaping business altogether, but keeping it in Brooklyn in a Commercial Zone (RB Zone) which is what they would like to do.

It is a full service landscaping maintenance company which has commercial, industrial, institutional, and residential accounts. He also sells mulches at retail from his property now. If relocated, he would like to expand to include topsoil, landscape stone, pavers, etc. All of the landscape services take place off site. His base of operations is a place to store vehicles, equipment, supplies.

Landscape maintenance and landscape service businesses don't appear to fit within the existing zoning regulations, except in the home business regulations. Attorney Sweeney feels this is an oversight.

Mr. Lyon has found a property in the RB Zone which is available and could accommodate a relocation of his entire business.

Attorney Sweeney stated that J. Roberson confirmed that Section 3.4.7.2 (RB Zone Regulations) would allow Mr. Lyon to continue the storage and distribution of landscape products and includes the retail sale from a property within the RB Zone. However, there is nothing that explicitly allows the landscape services component of Mr. Lyon's business (storage of vehicles, equipment, landscaping supplies) on that same property. J. Roberson suggested applying for a text amendment, but Attorney Sweeney asked the Commission to consider whether the existing regulations could be interpreted allow the other aspects of Mr. Lyons' business in the RB Zone.

- a. All services provided are offsite activities.
- b. Business services are permitted in the RB Zone. "Services that are intended more for, but not necessarily for the professional business community rather than the general public." Sixty percent of Mr. Lyon's customers are non-residential accounts.
- c. Definition of Business Services concludes with, "business support services not elsewhere classified."

Attorney Sweeney stated that landscape maintenance is a business support service and is not elsewhere classified in the regulations. He suggested that the storage of vehicles, equipment and supplies used for the landscaping maintenance business on a property which is going to be principally used for the storage, distribution, and retail sale of landscape products is really a subordinate and customarily, incidental use (accessory-use approach). The entire site could be looked at under special permit review.

Attorney Sweeney stated that they are looking for a way to resolve issue that addresses the concerns of the Town and to keep Mr. Lyon's business in Brooklyn.

The Commission Members gave their opinions and stated their concerns and there was a consensus that it could be considered under the current regulations for the RB Zone.

3. Discussion of 2015 Planning Priorities.

C. Kelleher asked the Commission Members to review the draft (provided in the packets) and be prepared for discussion at the next special meeting on February 17, 2015.

There was a consensus that the third Tuesday of each month is still good for special meetings.

C. Kelleher stated that she called the Freedom of Information Office and asked, if there is not a quorum, is it okay for the Members in attendance to have discussion as long as no action is taken. The reply was that it is okay to have a discussion as long as no action is taken. R. Ives stated that the same person told him that you cannot have a meeting/conversation if there is no quorum. Mr. Ives will get an answer.

IX. Reports of Officers and Committees:

1. Land Use Administrator Report.

J. Roberson released the cease and desist order for Courtesy Ford.

2. Zoning Permit Report January 2015.

Martha is making progress and is now looking at signage in the VCD and the Day Street intersection.

Discussion ensued regarding signage. D. Fuss left at 9:40 p.m.

3. Wal-Mart Update – None.

4. Budget – None.

5. Correspondence

J. Roberson mentioned a training opportunity by the Connecticut Bar Association on Saturday, March 21, 2015 (information included in packets). J. Roberson will register all Members who wish to attend. She will e-mail so that car pools can be arranged.

6. Chairman's Report – None.

X. Public Commentary

Jules Dagostino, 6 Barrett Hill Road, stated that he is encouraged by the discussion on Limited Business Enterprise. He reiterated what he heard during the meeting to be sure that he understood correctly.

XI. Adjourn

Motion by A. Carpenter to adjourn at 9:48 p.m. Second by M. Sigfridson. Motion carried unanimously.

Respectfully submitted,

J.S. Perreault
Recording Secretary