

**TOWN OF BROOKLYN
PLANNING AND ZONING COMMISSION**

**Regular Meeting
Wednesday, June 1, 2016
Clifford B. Green Meeting Center
69 South Main Street
6:30 p.m.**

MINUTES

I. Call to Order Chair, Carlene Kelleher, called the meeting to order at 6:32 p.m.

II. Roll Call - Carlene Kelleher; Craig Dunlop; David Fuss; Aaron Kerouac; Jeryl Mohn; Michelle Sigfridson; Dale Thompson; Jules D'Agostino, Alternate Member.

Alan Carpenter arrived at 6:34 p.m.

Staff Present – Jana Roberson, Director of Community Development.

III. Seating of Alternates

Motion by C. Dunlop to seat J. D'Agostino as a voting Member in the absence of A. Carpenter. Second by D. Fuss. Motion carried unanimously (7-0).

A. Carpenter arrived a moment later and took over his position as a Regular Member. J. D'Agostino sat in the audience for the remainder of the meeting.

IV. Adoption of Minutes:

1. Regular Meeting Minutes April 6, 2016.

There was discussion regarding a correction submitted at the May 4th meeting by A. Kerouac (regarding the vote for the effective date for SP16-001 on page 6 of the Minutes for the April 6, 2016 meeting). However, upon review of the audio recording, it was found that the vote had been correctly recorded in the Minutes. Therefore, the April 6th Minutes have been corrected to show that A. Kerouac abstained.

A. Kerouac stated that the reason that he abstained, is that he had voted no previously on the zone change. He stated that he voted no because he believes the Commission was creating a non-conformity. He suggested that, going forward, the Commission Members should be giving reasons for no votes and abstentions.

2. Regular Meeting Minutes May 4, 2016.

Motion by C. Dunlop to accept the Minutes of May 4, 2016. Second by J. Mohn.

C. Dunlop noted a correction to page 4, sentence should read, "C. Dunlop suggested that weekly tare weights be kept."

Motion carried with the noted correction (7-0-1). D. Thompson abstained as he had not attended that meeting.

3. Special Meeting Minutes May 17, 2016.

Motion by A. Kerouac to accept the Minutes of May 17, 2016, as presented. Second by C. Dunlop. Motion carried (4-0-4). D. Thompson, J. Mohn, M. Sigfridson and A. Carpenter abstained as they had not attended that meeting.

V. Public Commentary

Pam Lukin, 28 Maynard Road:

- She asked if there would be an opportunity for the public to comment during Agenda Item VI.d.1. ZRC16-001;
- She asked that, if a vote were taken, both the original and amended text change be read into the record at that time;
- She asked if it would be made clear what “significant change” refers to;

C. Kelleher and J. Roberson explained that the public hearing is closed and that no further testimony should be heard outside of the public hearing. They agreed that both the original and the amended text change be read into the record. They stated that it would be clear what “significant change” refers to.

Jules D’Agostino, 6 Barrett Hill Road, wanted to speak on Agenda Item VI.d.1. ZRC16-00. J. Roberson and C. Kelleher explained that if he were to comment now, it would be considered receiving additional testimony after the public hearing had been closed. During discussion on that item, the Commission will determine if an Alternate Member would be allowed to take part in the discussion.

VI. Unfinished Business:

- a. Reading of Legal Notice.**
- b. Continued Public Hearings: None**
- c. New Public Hearings: - None**

d. Other Unfinished Business:

1. ZRC16-001 Brooklyn Sand and Gravel LLC; Zoning regulation change to request to amend Article 13 Gravel Banks; Modify Sec. 13.5.4.2, add new Sec. 13.5.4.3 to allow gravel bank sites with frontage on a state highway to propose increased percentage of imported material for processing from 50% to 100% and renumber subsequent sections.

C. Kelleher explained that, after the close of the public hearing, the Commission had discussion and other language had been suggested (which had been mentioned during the public hearing). J. Roberson was asked to revise the language. However, no one liked that version, so additional concepts were introduced and J. Roberson drafted new language and Attorney Peter Alter was consulted for his opinion regarding the new language containing concepts not discussed during public hearing. His comments (e-mail dated May 10, 2016) were included in the packets to the Commission Members.

A. Kerouac stated that when the public hearing was closed (prior to any amendments) action had been taken and that it was a tie vote (4-4) and, therefore, the application failed. He stated that he is concerned that it is not being made clear in the minutes and wants to be sure it is made clear in these minutes for this meeting. C. Kelleher stated that the vote had been described in the minutes. Mr. Kerouac stated, “And, then it’s, subsequently, sort of, discounted as if it never happened. It was back to back after taking it and it was within two minutes.

The Commission Members explained to Mr. Kerouac that the motion to deny failed which means the application was not denied. Mr. Kerouac stated that this is why motions are to be made in the affirmative. Mr. Kerouac feels the Commission should not be taking any action on ZRC16-001.

Discussion ensued as there was disagreement.

There was discussion regarding Attorney Alter’s comments and which version of the Zoning Text Amendment (April 5, 2016) was being considered this evening.

J. D'Agostino stated that he feels "conditions" are new concepts. Mr. D'Agostino stated the Commission should debate on whether it will vote for or against on a positive motion and that two things need to be considered:

- How it does/does not compromise what the POCD says;
- How it does/does not compromise what the plan of this Town is.

J. Roberson stated that the April 5, 2016, revision is fully appropriate for consideration as it has been discussed during the public hearing before it was closed.

C. Kelleher asked the Commission if there were any other revisions that were brought up during the course of the public hearing that they would like to consider: J. Mohn stated that all of the revisions he favored came after the public hearing; C. Dunlop agreed; D. Fuss stated that he is comfortable with the April 5, 2016 proposal to let it come to a vote and then take it from there; A. Kerouac agreed with J. Mohn and C. Dunlop as almost a unanimous agreement was reached after the public hearing on the other change (a significant difference); M. Sigfridson stated that she feels that limiting the multiplier or introducing a smaller ratio is a new concept; J. Mohn stated that this language would enable an applicant to apply for stand-alone processing provided it was on a State highway anywhere in the RA which he feels would be inconsistent with the concept recommended by Attorney Alter.

A. Carpenter stated that he had reviewed the recording of the April 6, 2016 Meeting which he had not attended. C. Kelleher asked that if others that had missed a meeting and had not reviewed the materials and if they do not feel that they should vote to please abstain.

Motion by C. Dunlop to approve Application ZRC 16-001 Brooklyn Sand & Gravel LLC- Zoning regulation change request to amend Article 13 Gravel Banks: Modify Sec. 13.5.4.2, add new Sec. 13.5.4.3 to allow gravel bank sites with frontage on a state highway to propose increased percentage of imported material for processing from 50-100% (as modified), and renumber subsequent sections. Second by D. Fuss for discussion.

Discussion ensued.

M. Sigfridson noted that gravel processing is not addressed directly in the POCD.

C. Dunlop stated that he is concerned that this could affect residents forever with no chance of it stopping. It could dramatically increase the quantity going through.

J. Mohn processing could also continue when the gravel operation ceases.

A. Carpenter noted that the Commission is not approving a special permit, they are approving the text amendment.

A. Kerouac stated that, based on Regulations, the Commission could not deny someone's ability to process under special permit.

D. Fuss disagreed.

C. Kelleher stated that you could place conditions and hours of operation, but you can't disallow something that the Regulations say you can do.

M. Sigfridson stated that you could if there were negative impacts on the health, safety and well-being of the neighbors.

J. Roberson stated that you could if you could make a direct, logical connection between some limitation and the special permit criteria.

C. Dunlop stated that neighbors have complained in the past.

J. Mohn stated that his primary objection is that he is concerned that it eliminates logical terminus of gravel-related activity. He feels the intent of gravel operations within the Regulations is that gravel operations can continue as long as they are economically viable and that they continue in conformance with the Commission's requirements. At some point in time, when there is no merchantable gravel available to mine, the gravel operation will cease and the property will be restored for some potential re-use. He agrees that it would be difficult to deny a special permit for something that the Regulations permit.

C. Dunlop stated that if it came to a point where there was no more gravel, an applicant could come in and request a change. The location would have to be very carefully selected. He would prefer that it be in an industrial zone where it is away from residents.

M. Sigfridson stated that she doesn't see a requirement for issuing a gravel permit that there could only be 10, 20 or 30 years of gravel, you would expect the gravel to run out eventually. If it is appropriate to have trucks coming and going for 30 years, why is it not appropriate for 35 or 40 years? Davis Fuss agreed.

C. Kelleher stated that she can't lose sight of the fact that these gravel banks and this special permit is in an RA Zone and that is key.

Motion failed (3-5): M. Sigfridson – yes; A. Carpenter – yes; D. Fuss – yes; A. Kerouac – no; C. Dunlop – no; D. Thompson – no; J. Mohn – no; C. Kelleher – no.

Motion by D. Thompson to deny without prejudice Application ZRC 16-001 Brooklyn Sand & Gravel LLC- Zoning regulation change request to amend Article 13 Gravel Banks: Modify Sec. 13.5.4.2, add new Sec. 13.5.4.3 to allow gravel bank sites with frontage on a state highway to propose increased percentage of imported material for processing from 50-100% (as modified), and renumber subsequent sections. Second by M. Sigfridson.

Reasons for denial were stated above during discussion on the Motion to approve Application ZRC 16-001 which failed. There was a consensus that the reasons did not need to be restated for this motion because they are on the record.

Motion carried unanimously (8-0).

VII. New Business:

a. Applications – None.

b. Other New Business:

1. Discussion re: Scenic Road Ordinance

C. Kelleher stated that this had been brought up by Don Francis. He had a complaint about metal guiderails that had been installed on Bush Hill Road.

J. Roberson had provided a photograph of the guiderails and copies of Ordinance 13-5 Scenic Road Designations.

C. Kelleher explained that the Commission has an ability to propose alternatives, but it is not the deciding factor. She noted that First Selectman, Rick Ives, is an ex officio Member of the P&Z Commission. Mr. Ives stated that it was his intent to have the guiderails across Town be a referral to the Commission, but found that most roads do not have to be brought as a referral, not realizing that scenic roads do need to be brought as a referral. He stated that those three roads will be brought before the Commission in the future. However, he stated that safety and maintenance of the roads is the responsibility of the Board of Selectmen and the

Highway Foreman. He stated that the replacement of the guiderails was maintenance and it was felt that more support was needed there and that is why that type was selected.

A.Carpenter explained that the end anchors are important to keep the guiderail from flexing when someone hits it.

Discussion ensued. J. Roberson stated, for the record, that Mr. Ives had informed her that guardrails were going to be replaced Town-wide. She had reviewed 8-24 (municipal referral) which excludes maintenance activities such as guardrail replacement. However, she was unaware of the scenic road ordinance and that there would be a replacement on one of those roads.

Mr. Ives stated that, in the future, he would inform the P&Z Commission in advance.

C. Kelleher stated that, regarding Mr. Francis' inquiry of the designation of additional scenic roads, the impetus has to come from the residents on that road. Mr. Ives agreed and said that it would have to be brought to the Commission.

2. Preliminary discussion regarding potential conservation subdivision at the end of Tripp Hollow Road.

Paul Archer, Archer Surveying, represented Shane Pollock of Homestead Construction who was seated in the audience.

Mr. Archer provided plans for viewing by the Commission. He explained that Mr. Pollock purchased a 44 acre lot (7 acres in Canterbury and the remainder in Brooklyn). Mr. Pollock would be enabled to take a free split. He would like to use 23 acres including the Canterbury acreage to build his home (in Canterbury). The remaining 15 acres (he indicated where) would be used for a 6-lot subdivision with each lot will probably be an acre (as opposed to the 30,000 s.f. minimum). Mr. Archer showed how this would work with both conventional subdivision (3 rear and 3 front) and conservation subdivision (5 lots along the road with 1 lot in the back with 8 of the 15 acres dedicated to open space intended to remain in Mr. Pollock's name). There are no wetlands on the land (back borderline abuts wetlands). Gently sloping land. All driveways would be 8 to 10 percent. Mr. Pollock had dug a couple test pits before purchasing the property to verify the gravel.

Mr. Archer stated that they are coming before the Commission to get direction on whether to proceed with a conservation subdivision.

Discussion ensued. There was some discussion regarding the houses being lined up near the road and how that does not preserve the look of the road (which is the intent of a conservation subdivision). There was discussion regarding the road being a dead end. J. Roberson stated that it is appropriate to look at it from a planning perspective.

Consensus to proceed with conservation subdivision.

3. Preliminary discussion regarding drive-in restaurants in the Village Center District.

Paul Archer, Archer Surveying, represented Shane Pollock (Homestead Construction) who would like to have a seasonal dairy bar on a lot at the corner of Hyde Road and Route 6. In 2010 approval had been received from WWIC, DOT and P&Z special permit for a commercial building (Freedom Lifts). It was never built. Mr. Pollock would like to purchase the land and use the same basic layout, building plan for a barn-style building that had been approved. He provided plans for viewing by the Commission. He stated that there is plenty of room for parking.

Mr. Pollock stated that it would be seasonal like Hank's Dairy Bar from first week of April to the end of October.

They asked how the Commission feels about this.

There was discussion regarding the definition of fast food/drive up with outdoor tables (no inside seating).

Rick Ives stated that people want the rural culture maintained outside of Route 6 and he feels that it is a wonderful idea, but the wrong place for it. J. D'Agostino agreed.

Mr. Archer stated that the definition is vague enough that it may not necessarily meet the fast food restaurant criteria.

J. Roberson clarified that she feels that the proposal presented to her does not meet the current Regulations and that she feels it is a fast-food restaurant as the Regulations define it and it is not currently permitted in the Village Center Zone.

Mr. Archer asked the Commission if they would consider a text amendment to allow something like this to go into the VCD as they are on the outskirts.

There was discussion regarding traffic concerns.

- C. Kelleher asked the Commission Members how they feel:
- D. Thompson – Loves the idea, but not fast food there.
- J. Mohn – Prefers not to have to amend the Regulations, make it a sit-down restaurant.
- D. Fuss – Needs more information, tough location.
- Carpenter – Agrees with D. Fuss.
- M. Sigfridson – Dairy bar not appropriate in the VCD.
- C. Kelleher – Agrees with everything said.
- C. Dunlop – Bad location for traffic, part of the reason Freedom Lifts was approved is because traffic would be very limited.
- A. Kerouac – Great concept, but a text amendment would be needed and then it could potentially be anywhere else in the VCD. There are other locations along Route 6.

4. Preliminary discussion regarding proposed change in site development for Toudis, LLC, Dunkin Donuts, 445 Providence Road.

Norm Thibeault, Killingly Engineering Associates, represented Toudis, LLC. Mr. Thibeault provided copies of plans previously approved (dated 5/28/2015). Plans showing the proposed changes (dated May 5, 2016) were included in the packets to the Commission Members.

Mr. Thibeault explained that the church has been demolished and the site is clear now. The retaining wall system would be very expensive (approximately \$200,000.00). They have secured an option for the property in the rear containing a duplex (Pappas) and they are proposing a boundary-line adjustment between both properties to give the Route 6 property more area to allow for some grading. They are now proposing two buildings totaling approximately 9,000 s.f. instead of the single building with approximately 7,600 s.f. They are proposing a stand-alone Dunkin Donuts with an outside patio/dining/sitting area between the Dunkin Donuts and the second commercial building. They are proposing to construct an office building off the parking area in the back of the property. The duplex will remain (as a rental property) with a vegetative buffer.

A.Kerouac asked about Paula Stall's suggestion regarding the intersection. Discussion ensued. Mr. Thibeault stated that he is not ready to speak on behalf of his client at this time.

J. Roberson stated the proposed revisions:

- Lot-line revision;
- Elimination of the retaining wall;
- Slight smaller building broken up into two buildings plus a third building in the back;
- Grading in lieu of the retaining wall;
- More parking area.

Mr. Thibeault stated that he was trying to maximize the parking to show the potential based upon the parking requirements. Impervious coverage is well below 61 percent which was proposed previously (based on the lot size).

R. Ives will speak with Mr. Moutoudis regarding Paula Stall's report. J. Roberson will provide information to Mr. Thibeault.

A.Carpenter stated that he would like to see rendered perspectives (from the street). Mr. Thibeault will provide them.

5. Preliminary discussion regarding 404 South Street (old O'Connor Vending Co.).

Mike Cristina, Corner Properties, stated that it was a non-conforming use and he does not believe there is anything that would prohibit him from re-renting it for another use similar to what was there (i.e. a contractor storing his siding). The street card says commercial warehouse.

The owner went out of business and then died. Mr. Cristina's opinion is that the use was not abandoned.

J. Roberson stated that the property is in the R-10 Zone, contains a house and a modest warehouse/garage/workshop/office. It was a grandfathered mixed-use because it had a house and vending machine company and a professional office. She explained that the use has been terminated, however, case law focuses on intent to abandon. She stated that she could consult with the Town Attorney, but a written property history (showing a description of the uses) is needed.

Mr. Cristina read from the Regulations, page 112, Non-Conforming Buildings and Uses, "...such use may be continued, but may not be extended, or expanded or changed."

Mr. Cristina read from the definition of use, "Any purpose for which buildings or other structures or land may be occupied."

Mr. Cristina feels that the use does not have anything to do with the name of the company, so it does not have to be a vending company.

Mr. Cristina also referred to page 32 of the Regulations.

Mr. Cristina stated that there would not be any outside storage, only inside storage, phone calls made in the office space and vehicles coming to pick stuff up. He asked why he can't just rent it out.

J. Roberson stated that the zoning permit would be issued by the ZEO. She explained that the history of the property needs to be documented in order to make a connection with any proposed new uses to the grandfathered use.

C. Kelleher stated that this is a ZEO determination and if Mr. Cristina disagreed with the ZEO's decision, then he would need to go before the ZBA to appeal the decision.

Discussion ensued. J. Roberson read from Section 14.4 - Change in Use, of the Regulations and she explained that the P&Z Commission would be involved with this option (Special Permit Change of Use). Discussion ensued.

6. Discussion of Zoning Regulations Re-Write.

It was decided to postpone this discussion to the Meeting of June 21, 2016, as most Members stated that they would be able to attend.

VIII. Reports of Officers and Committees:

1. Zoning Enforcement Officer Report.

A.Kerouac asked about Courtesy Ford. J. Roberson stated that they have to replant the trees that died.

2. Budget – No discussion.
3. Correspondence – None.
4. Chairman's Report – None.

IX. Public Commentary

A.Kerouac voiced complaints about the Commission and stated that people may start leaving Town. He stated that the character of the Town is being lost if the Commission keeps going in the same direction.

XI. Adjourn:

Motion by D. Fuss to adjourn at 9:21 p.m. Second by A. Kerouac. Motion carried (8-0).

Respectfully submitted,

J. S. Perreault
Recording Secretary