

**PLANNING AND ZONING COMMISSION  
TOWN OF BROOKLYN  
P.O. BOX 356  
CONNECTICUT 06234**

**PLANNING AND ZONING COMMISSION  
TOWN OF BROOKLYN  
SPECIAL MEETING MINUTES  
June 8, 2011  
Clifford B. Green Memorial Center  
69 South Main Street  
7:00 p.m.**

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**I. Call to Order:** The meeting was called to order at 7:02 p.m.

**II. Roll Call:** Paul Camara, Barbara Repko, Don Francis, Tom Doherty, Deane Rettig, Carlene Kelleher, Craig Dunlop, Henry Moses, Al Sandholm. David Fuss arrived late.

**Absent:** None.

**Staff Present:** Chuck Dobrowski, ZEO, Jim Larkin, NECCOG Planner, Audrey Cross-Lussier Secretary, and Robert Kelleher, Selectman.

**Also Present:** Paul Archer, Rene and Lyn Comtois, Spiro Haveles, Lisa Arends, Paul Damiani and public in attendance.

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

**IV. Adoption of Minutes:**

**1. Regular meeting minutes May 4, 2011:**

A motion was made by Deane Rettig to approve the meeting minutes of May 4, 2011. Tom Doherty seconds this motion. No discussion held. All in favor. The motion passes. Paul Camara abstains.

**2. Special Meeting Minutes May 19, 2011:**

A motion was made by Tom Doherty to approve the special meeting minutes of May 19, 2011. Craig Dunlop seconds this motion. No discussion held. All in favor. The motion passes. Deane Rettig and Paul Camara abstain.

**V. Public Commentary:** None.

**VI. Unfinished Business:**

**a. Reading of Legal Notice:** Al Sandholm reads the legal notices into the record.

**b. Continued Public Hearings:**

**1. ZRC11-001 PAP Incorporated, 392 Providence Road, Map 41, Lot 4, Text Change to Section 10.6.2 Wall Signs (continued from May 19, 2011).**

Paul Archer, Archer Surveying LLC represents application ZRC11-001.

Mr. Archer submitted the following proposed revised Text Change: "10.6.2.1 Where the applicant can demonstrate to the satisfaction of Town Staff/Zoning Enforcement Officer that the design of the structure(s) are not suitable for a wall sign, a roof sign may be permitted to replace all or a portion of the wall sign permitted in section 10.6.2. No roof sign including any illuminating devices, shall project higher than the peak of the roof upon which it is located. The aggregate area of wall and roof signs shall not exceed one (1) square foot for every foot in length of such building wall. Roof signs shall run parallel to the wall they are located above."

Chairman Kelleher asked what text was changed from the previous text. Mr. Archer stated that a subsection 10.6.2.1 was added instead of changing the whole text. The following was added to the text "the applicant can demonstrate to the satisfaction of Town Staff/ZEO that the design of the structure are not suitable for a wall sign, a roof sign may be permitted to replace all or a portion of the wall sign permitted in section 10.6.2."

Don Francis suggests eliminating the Zoning Enforcement Officer and just leaving Town Staff. Mr. Archer and the applicant are in agreement with this change.

Chairman Kelleher opens the floor to public commentary. No comments received.

A motion was made by Dave Fuss to close the public hearing on application ZRC11-001. Don Francis seconds this motion. No discussion held. All in favor. The motion passes. Deane Rettig and Paul Camara abstain.

**2. SP11-002 Spiro Haveles, 18 Providence Road, Map 24, Lot 58, VCD Zone, Commercial use with Apartment.**

Paul Archer from Archer Surveying represents application SP11-002.

Mr. Archer presents a site map to Commission members. The application is for a change of use from residential to commercial for the property located at 18 Providence Road, formerly the "Calabash." The previous owners changed the use back to residential. Mr. Archer stated the applicant, Spiro Haveles, has purchased the property and would like to change it back to commercial. Mr. Haveles has a tenant that would like to open a bakery shop. The hours of operation will be Tuesday through Saturday 10 a.m. to 8 p.m., Sunday hours 8 a.m. to 8 p.m. and closed on Mondays. Mr. Archer stated the applicant would like to place outside seating for patrons.

The parking area will remain the same in the rear of the building off of Route 169, however, require some cleaning up. There are two parking spaces in the front for the apartment with one for handicap parking.

Lindsay Smalley, spoke on behalf of the bakery business. Ms. Smalley would like to have a gourmet deli along with bakery/sweets and ice cream. Winter hour closing would be approximately 5:30 p.m.

Tom Doherty asked if there would be handicap parking in the rear of the building. Mr. Archer stated there are steps in the rear of the building near the parking area. There is a ramp in the front to accommodate the handicap patrons.

Mr. Archer stated an additional sign will be placed on the Route 169 sign.

Chairman Kelleher opens the floor to public commentary.

Tom Mercier, resident 24 Providence Road asked for clarification on the VCD Zone regulation. Chairman Kelleher commented that the VCD Zone does allow both residential and certain commercial business. The commercial businesses are mostly smaller businesses. The proposed business is considered a small commercial business. Discussion held.

Pat Burns, 80 Pomfret Road asked Ms. Smalley how long she has been in business. Ms. Smalley stated she has worked as a personal chef for quite awhile and the opportunity arose to open the bake shop.

Mr. Archer commented that the building is on a private lot with public sewer.

Al Sandholm asked if on site lighting will be used. Mr. Archer stated he and Mr. Haveles walked the site and determined that the onsite lighting is ample enough to be used.

Tom Doherty asked if the abutters received notification. Mr. Archer submitted abutter's notices for the record.

A motion was made by Don Francis to close the public hearing on SP11-002. Deane Rettig seconds this motion. No discussion held. All in favor. The motion passes unanimously.

**d. Other Unfinished Business:**

**1. ZRC11-001 PAP Incorporated, 392 Providence Road, Map 41, Lot 4, Text Change to Section 10.6.2 Wall Signs (continued from May 19, 2011).**

A motion was made by Henry Moses to approve application ZRC11-001. Al Sandholm seconds this motion. Discussion held. Chairman Kelleher suggests changing the language to just "Town Staff" without reference to the "ZEO." All in favor. The motion passes. Deane Rettig and Paul Camara abstain.

**2. SP11-002 Spiro Haveles, 18 Providence Road, Map 24, Lot 58, VCD Zone, Commercial use with Apartment.**

A motion was made by Deane Rettig to approve application SP11-002. Craig Dunlop seconds this motion. No discussion held. All in favor. The motion passes unanimously.

**3. Townsend Development Associates, LLC, Providence Road, requesting 5 year extension of Site Plan SP06-009 (original approval January 3, 2007).**

Syl Pauley, Regional Engineer, NECCOG discusses his letter dated June 7, 2011 with the Commission regarding a site walk conducted by himself, Chuck Dobrowski, Paul Archer and Steve Townsend on the undeveloped property on Providence Road, "The Shoppes at Brooklyn Commons."

Mr. Pauley addressed the following concerns:

- Lack of installation of the 4' tall, black PVC coated, chain link fence to the rear of the property.

The main reason for not installing the fence at this time is that site grading in this area has not been completed, being approximately 18"-24" below the finish design elevation. If the fence were to be installed now it would only have to be dismantled to complete site grading in that area and then reinstalled, if it survived being dismantled. As evidence in the field, this fence appears to be in this location to prevent direct access to the property and not for reason of safety, since where it will be installed is at the top of what appears to be 3:1, more or less, slope that abuts a wide drainage swale that is maintained by the Town of Brooklyn. Accordingly it is Mr. Pauley's professional opinion that it is not essential to have the fence installed at this time, but rather, have it in place by the time "Phase II" is completed.

- Effectiveness of vegetative cover over disturbed areas where blowing dust is alleged to have been a problem in the past.

Mr. Pauley feels the existing "wild" vegetative cover consisting of 2'+/- tall woody perennials, grasses and weeds, is growing over the majority of the disturbed area even though there appears to be little or no loam, the majority soil being gravel. This does not conform to conditions stipulated on the plan, which calls for the application of loam and seed to any and all disturbed areas not being built upon. Even though the existing growth and soil bed is not as specified in the plans, it is Mr. Pauley's professional opinion that it is effective in minimizing erosion by water and wind and should be left "as is."

- To see if conditions set forth in the approved plan set have been met.

Mr. Pauley feels relative to other "conditions" on the plans, there appears a note on the plans calling for the installation and maintenance of soil erosion and sediment control devices – such as silt fence – where the original land has been disturbed. Mr. Pauley observed that original silt fence placed in close proximity to earth slopes of the "Phase II" property, primarily along the

east side of the large detention basin adjacent to the west side of the property and along the south side of the drainage swale running along the north side (rear) of the property, has not been properly maintained and needs replacement because the majority of the slopes remain un-vegetated and continue to erode. Additionally, a 15'+/- portion of the slope along the swale was found to exhibit a well defined gully resulting in gravel being deposited in the swale below. It is Mr. Pauley's professional opinion that in addition to total replacement of silt fence the gully should be repaired and all bare slopes stabilized with an application of a minimum of 4 inches of loam from no less than 5 feet behind the "top of slope" to at least 5 feet beyond the "toe of slope." This should greatly reduce soil erosion and the frequency of long-term maintenance of the silt fences. This work should be done during the next planting season, which is August-October.

Mr. Pauley also discussed several small areas of sediment deposits in several locations within the Town-maintained "regional" drainage detention basin and swale. It was evident that some of this material was coming from the "Phase II" portion of the development. The soil deposits should be removed, filled with loam and planted with seed during the upcoming planting season.

Al Sandholm voices his concerns with regards to the Phase I conditions not having been met; the fence not being placed; loaming and reseedling to make the property look presentable.

Steven Townsend, Barrett Hill Rd, comments that the project was to be done in two Phases; the front with Savings Institute and CVS. Mr. Townsend feels that a good job was done with the Phase I project. Phase II was to be the development of a 56,000 sq ft building in the rear. Mr. Townsend stated he donated the land to the Town for the detention swale to solve the drainage problems along Route 6. The agreement was that once this was built the Town would take over the responsibility of maintenance.

Dave Fuss suggests that the property be brush hogged on an annual basis leaving some brush around the edges. Mr. Fuss agrees with Syl Pauley's comments as the vegetation establishes itself will act as an area for the wind and also debris that may be blowing around. Mr. Fuss is not concerned about the re-loaming. Mr. Fuss is in agreement with the Town assuming responsibility to maintain the swales. Mr. Fuss's concern is if the property is adequately secured for public safety.

Syl Pauley commented that two manhole covers were stolen/missing. The covers have been replaced.

Steven Townsend agreed the property could be brush hogged once a year and agreed to replace the silt fence.

Craig Dunlop asked if the swale was originally stabilized so that it was in the position for the Town to take it over for maintenance. Mr. Townsend stated he believes that it was stabilized. Further discussion was held with regards to the loaming and seeding stabilization.

Al Sandholm reiterates his concerns with regards to the original conditions not having been met, i.e., the fence and the lack of loaming the site. Discussion held.

Tom Doherty suggests brush hogging the property and putting a strip of loam nearest the adjoining property line. Henry Moses agrees with Mr. Doherty's suggestion as to approve aesthetics of the property. Discussion held with regards to the planting of trees in the three islands.

Barbara Repko would like to see some type of screening between the vacant field and abutting property owners.

Syl Pauley commented that the place where screening would take place would be on the North side of the property. Unfortunately there is a swale where trees would be planted. The original site plan did not allow a provision for a shelf on the property line between the neighbors and the edge of the top of slope of the swale on the North side. There is also no provision on the Phase 2 site plan to put any screening on the South side of the swale because this will be an access way behind the proposed building. There is only one screening on the plan and it is between this development and the Job Lot Plaza. Lengthy discussion held.

Deane Rettig suggests adhering to Syl Pauley's recommendations with regards to the property.

Jim Larkin discusses a letter received from Attorney Peter Alter dated June 3, 2011 with regards to Site Plan Approval Extension.

Mr. Larkin suggested the Commission come up with the list of conditions to be reviewed by Staff so the appropriate language can be drafted for a motion. Discussion held.

Steven Townsend attributes the non-completion of Phase II of the property due to the economy and the prolonged Wal-Mart issue.

A motion was made by Tom Doherty that with good cause the Commission grants the 5-year extension for Townsend Development Associates SP06-009 in accordance with Section 4.4.5 and the following:

1. The fence may be placed later as the grade is not finalized per Regional Engineer's report June 7, 2011.
2. Silt fence to be installed per Regional Engineer's report dated June 7, 2011.
3. Scoured areas repaired – loam and seeded along the north border drainage detention basin and swale per Regional Engineers report dated June 7, 2011.
4. Brush hogged twice a year.
5. Trees to be planted six (6) in the three islands.
6. Re-establish the bond as protection of the property.
7. Original conditions of the site plan shall apply.

Don Francis seconded the motion. Discussion held on the motion.

Selectman Robert Kelleher recommends Mr. Townsend and Mr. Archer meet with the Board of Selectmen to discuss the Town of Brooklyn's maintenance agreement/responsibility with regards to the cleaning of the swales and hydro-separator areas.

Lengthy discussion held.

Chairman Kelleher recommends having Attorney Alter review the draft motion to be sure the conditions are appropriate and to find out from the Board of Selectmen whose responsibility it is to maintain the swale.

Chairman Kelleher polled the Commission for their opinion. All agreed with the exception of Dave Fuss.

Steven Townsend commented he will be happy to meet with the Board of Selectmen to review the maintenance agreement issue. Mr. Townsend has agreed to fix between now and July what was discussed on the Northern side of the swale; install the silt fence and brush hog the property. Mr. Townsend does not feel there is a need for a bond and would like the Commission to reconsider this.

A motion was made by Deane Rettig to continue the discussion on Townsend Development Associates, Providence Road, requesting 5-year extension of Site Plan SP06-009 to July 6, 2011. Tom Doherty seconds this motion. No discussion held. All in favor. The motion passes unanimously.

#### **4. Plan of Conservation and Development Final Draft:**

Chairman Kelleher commented that the POCD Final Draft is complete with the exception of the zoning map and the Commission can choose either to approve this evening without the zoning map or wait and approve after the maps have been completed.

Al Sandholm commented that the same map that is on the Town's website would be the appropriate to be use in the POCD document.

Jim Larkin stated that Chuck Dobrowski has reviewed the initial GIS mapping. A few minor changes still need to be made. Discussion held.

Chairman Kelleher comments there is a typo error in the Governance and Administration section Objectives and Relation to Key Priorities.

A motion was made by Deane Rettig to approve the Plan of Conservation and Development as presented with a caveat once the GIS map is complete that it will be inserted into the appropriate location with page numbers inserted as well. Tom Doherty seconds this motion. Discussion held on the motion. All in favor. The motion passes unanimously.

## **5. Special Events Draft Regulation:**

Chairman Kelleher commented a few changes have been made to the document with a few questions for Attorney Peter Alter. Mr. Larkin commented that Attorney Alter has not had a chance to fully review the document but will do this within the next week. Mr. Larkin agreed to e-mail to Commission members the current version that Attorney Alter will be reviewing. Chairman Kelleher suggests deferring any discussion of the Special Events Draft until the most updated version is received.

Hans Koehl asked to speak with regards to the Special Events. Chairman Kelleher asked Mr. Koehl to hold his comments until the Public Commentary section of the agenda.

## **VII. New Business:**

### **a. Applications:**

1. SP11-003 Courtesy Ford; 455 Providence Rd; Map 41, Lot 114, PC Zone; Proposed building addition to existing automobile sales facility.

Al Sandholm recuses himself from the table.

A motion was made by Deane Rettig to accept application SP11-003 as presented and set a public hearing date for July 6, 2011. Dave Fuss seconds this motion. No discussion held. All in favor. The motion passes. Al Sandholm recuses.

### **b. Other New Business:**

## **VIII. Reports of Officers and Committees:**

### **1. Zoning Enforcement Officer's Report May 2011.**

Al Sandholm returns to the table.

Mr. Dobrowski discussed in detail the Zoning Enforcement Officer's report for the month of May 2011 with Commission members.

Mr. Dobrowski discussed the following with Commission Members:

1. Knust Property, 60 Pomfret Road. Construction has begun on the property; removal of an existing sunroom and reconstruction of a new sunroom. A letter was sent dated May 10, 2011 from Building Official John Berard and ZEO Chuck Dobrowski as a cease and desist notice for all work to the exterior of the property. Mr. Dobrowski has contacted and forwarded all information to Attorney Peter Alter with regards to this issue.



2. Mr. Dobrowski has recently conversed with Tom Doherty with regards to Brooklyn Oil. Mr. Doherty's idea is to tax all vehicles on the property to include unregistered motor vehicles and vehicles registered in other states. Mr. Dobrowski will converse with Kathy Thornton, Assessor regarding this issue upon her return from vacation next week. Mr. Dobrowski has spoken with the property owner with regards to this issue.

3. Brooklyn Farm and Pet, 245 Providence Road: Mr. Dobrowski stated that an amended site plan has been provided by the owner. It demonstrates where the mulch piles area; where the storage is; and the outside display.

Deane Rettig voiced his concerns. The original site plan showed limited storage behind the building. There is now a tractor trailer being used for storage that is located in the parking lot. Mr. Rettig feels the storage on the site plan has been expanded without the applicant coming before the Commission. Mr. Rettig also discussed the purpose for a site plan review. Mr. Rettig feels that this is an expansion of the site plan and not a minor modification.

Mr. Dobrowski commented that he has the ability to approve minor modifications to a site plan within the zoning regulations. Mr. Dobrowski used his own discretion and feels that these were minor modifications. Mr. Dobrowski stated that the trailer is shown on the modified plan.

Lengthy discussion held.

Mr. Dobrowski has agreed to work with the owner on this issue.

Chairman Kelleher asked for this item to be placed on next month's agenda so Mr. Dobrowski can further report to the Commission.

Dave Fuss commented that the trailer is a "temporary storage trailer" that the owner sells hay out of. Mr. Dobrowski stated he will verify this for the Commission.

**2. Village Center District:** Deane Rettig tried to have a meeting; unfortunately there was no quorum, so the meeting was not held.

**3. Regulations Subcommittee:** Chairman Kelleher stated the subcommittee will try to meet this month.

**4. Budget:** Chairman Kelleher asks the Commission members to review the budget information within the packet.

**5. Chairman's Report:** Chairman Kelleher and Chuck Dobrowski went to the Aquifer Protection Agency Workshop held June 5, 2011. The Conservation Commission feels they are not the appropriate Commission to administer these regulations. The Aquifer in Brooklyn is at stage Level B mapping and the Town is required to adopt regulations. Nothing can be done until the Level B mapping is moved to Level A mapping which is the responsibility of Connecticut Water Co. When the Level A mapping is available there are model regulations that are adopted by the Town. This identifies regulated activities of businesses located on the Aquifer.

If the P and Z Commission are in agreement and if the Board of Selectmen redrafts the existing ordinance, the P and Z could take on the responsibility.

#### **IX. Public Commentary:**

Hans Koehl, Bush Hill Road, voices his concerns with regards to the Special Events Regulation. Mr. Koehl does not see the need for recurring secondary uses where appropriate. There are places in Town where events can be held. Mr. Koehl feels that the regulation is vague with regards to definitions such as Fund Raiser, etc. Mr. Koehl feels the biggest pollution factor is noise which is not mentioned in the regulation. Mr. Koehl asks that the regulation be very specific as to what is allowed; limit to non profit organizations and certain kind of affairs.

Dave Fuss asks for Mr. Koehl to submit his concerns in writing to the P and Z Commission.

Chairman Kelleher commented on how the Special Events Regulations came about. Discussion held.

Norman Sorel, Hartford Road, had questions with regards to business displaying goods outside. Chairman Kelleher commented that this discussion is limited to the Planned Commercial Zone. Businesses outside of the PC Zone that were not part of this discussion. At the present time the regulations say any retail store located in the Planned Commercial Zone cannot have any merchandise outside. What the proposed draft regulation of the Planned Commercial Zone will do is to remove that limitation so that retail stores within the Planned Commercial Zone will have an opportunity to display merchandise outside.

Lisa Arends, Allen Hill Road, commented on private interests conflicting with public duty. When an application is before the Commission and a Commission member is working on that property, this raises the question if the Commission member should recuse themselves.

Chairman Kelleher commented that each Commission member decides on their own whether a situation warrants a conflict of interest. It is not up to the Commission to police this.

Dave Fuss responds to Ms. Arends. Mr. Fuss has spoken to the Town Attorney who advised him if he is not part of the company he is working for; if he does not hold stake in that company; if he does not socialize with the company and merely does work for the company than a recusal is not necessary. Mr. Fuss commented that the particular text amendment that Ms. Arends was speaking of was for the entire Planned Commercial area. Ms. Arends commented that she appreciates Mr. Fuss' comment.

Lisa Arends, commented that the Special Events Regulation came about because an EDC member came to a non-profit in Town and recommended they have fund raisers in Town. Ms. Arends formed a fund raiser from 2-6 p.m. on a Sunday afternoon in Town that did not impact the neighborhood. Ms. Arends commented that the spouse of the EDC member filed a complaint, who is a member of the P and Z Commission, and now the Special Events Regulations are being drafted for the entire Town of Brooklyn with a \$1,000 fine if anyone violates the regulation. Ms. Arends asked the Selectmen for a list of complaints that had come in

over the past 2 years which were only 1-2 complaints. Ms. Arends stated that she is now looking at the repercussion for the 1-2 complaints where the Special Events Regulations were created which will penalize every non-profit and citizens in Brooklyn. Ms. Arends asks the Commission to carefully reconsider the Special Events Regulation.

Chairman Kelleher commented that she never wanted to see the Commission be put in the position to have Special Events Regulation.

Hans Koehl reiterated his earlier comment that the regulation be very specific as to what is allowed.

Deane Rettig addressed his concerns with regards to the Special Events Regulation. Mr. Rettig commented that with a Special Events Regulation in some respects will do well if it is drafted properly and specifically.

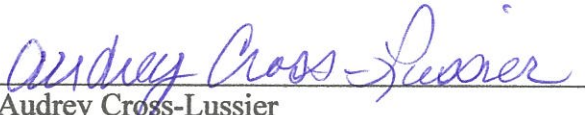
Paul Damiani, Westview Drive, commented that currently there is an Ordinance that the Board of Selectmen are responsible for. Mr. Damiani supports having an Ordinance rather than a Special Events Regulation.

Jim Larkin commented Attorney Alter's opinion wasn't that the Commission had to come up with a Special Events Regulation. Attorney Alter's opinion was on a particular event that was held. Based on Attorney Alter's opinion since the event was not an allowed use in the zone something needed to be reflected within the regulations and let the Ordinance govern it or visa versa. Discussion held.

Paul Damiani, Westview Drive, comments on conditions of approval on applications and how someone must check to see if these conditions have been met.

Lisa Arends, Allen Hill Road, also commented on conditions of approval of an application being met.

**X. Adjourn:** A motion was made by Henry Moses to adjourn the meeting at 10 p.m. Paul Camara seconds this motion. No discussion held. All in favor. The motion passes unanimously.

  
Audrey Cross-Lussier  
Recording Secretary