

**Town of Greenwich  
Planning Board Organizational Meeting Minutes  
01/14/2010**

**Call to Order:** Chairman Tomkins called the meeting to order at 7:00 pm.

**Members Present:** William Tomkins, Jeff Duxbury, Carl Thygesen, Kyle Vandewater (8:20) and John Mattison (7:26).

**Members Absent:** Dan Spigner and Michelle Wright.

**Also Present:** Clerk Kellie Blake, Planning Board Attorney Tony Izzo, Code Enforcement Officer Dan O'Connor, ZBA Chairman John Farndell, ZBA Member Tammara VanRyn, ZBA Clerk Amanda Willetts, Supervisor Sara Idleman and Town Councilman George Perkins.

**Members of the public who signed the attendance sheet:** Patsy Ciccarone and Rick Sullivan.

**Correspondence:**

A letter was received by Town Clerk Elaine Kelly, from Jessica Ryan, Greenwich Floor Covering regarding the establishment of a new business named Greenwich Floor Covering, located in the strip mall at 1156 State Rte. 29. Planning Board Clerk Kellie Blake brought it to the attention of the Planning Board and asked if this would require a permit. Chairman Tomkins stated that the strip mall itself is the permitted use; an individual business moving into the mall does not require a permit.

**Informal Review:**

**01/14/2010**

**Patsy Ciccarone** stated that he owned a 6.82 acre parcel located at 415 Riddle Road. Tax Map ID # 198.-1-12.3. Currently there are two houses, wells and septic systems on the one parcel. Mr. Ciccarone's house has a driveway off of Riddle Road and his son's house has a driveway off of County Route 49. He would like to subdivide the parcel so that his son could purchase his house. Chairman Tomkins stated that when the survey is done to make sure the well and septic are on the correct lot. Mr. Ciccarone asked if his son could proceed with financing of the property even though the lot was not subdivided yet as the Minor Subdivision application states: *"Please understand that according to Real Property Law, Article 9, Sec. 334, there shall be no offering of any such lots, plots, blocks, or sites for sale before the subdivision is approved and recorded with the County Clerk"*. Chairman Tomkins stated that Mr. Ciccarone could not list the parcel with a realtor until it was subdivided but his son could proceed with the banking process, there could not be a contract for sale until the subdivision is approved and created legally.

**Informal Review:**

**01/14/2010**

**Rick Sullivan** stated that he owns a 26.76 acre parcel located at 249 Spraguetown Road. Tax Map ID # 221.-2-1.3. Rick stated that he has had the entire parcel with house and barns for sale. There is a gentleman interested in the property but he would like part of the parcel with enough land to receive an agricultural exemption. Rick would like to create a "key lot" with a 50 ft wide driveway for access to the other lot. Rick stated that the placement of the driveway is rather steep, but when graded will be fine. Code Enforcement Officer Dan O'Connor stated that in *Section 190-72 of the Zoning Ordinance Driveway Standards it states: The following standards shall apply to all private driveways in the Town of Greenwich.*

*A. Private driveway grades shall not exceed 12%.*

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*B. Private driveway grades shall not exceed 3% within 100 feet of the intersection with a public roadway.*  
Rick was given a Minor Subdivision Application and Chairman Tomkins stated that the next step would be to have the property surveyed and maps created for the Board to review.

**Annual Organizational Meeting:**

The meeting was turned over to Attorney Anthony Izzo at 7:26 pm to begin the organizational portion of the meeting. Tony Izzo opened the floor for nominations for Chairman for the year 2010.

Motion by Jeff Duxbury to nominate William Tomkins as Chairman of the Planning Board.

Seconded by John Mattison.

There were no other nominations for Chairman.

Motion by Jeff Duxbury

Seconded by Carl Thygesen to close the nominations for Chairman of the Planning Board.

Motion by Bill Tomkins to nominate Jeff Duxbury as Vice Chairman of the Planning Board.

Seconded by Carl Thygesen.

There were no other nominations for Vice Chairman of the Planning Board.

Motion by Bill Tomkins

Seconded by John Mattison to close the nominations for Vice Chairman of the Planning Board.

Resolution # 1-2010

Election of Chairman

Resolution by Jeff Duxbury

Seconded by John Mattison

And passed unanimously by said Board;

RESOLVED, that the Planning Board hereby appoints William Tomkins as Chairman to the Planning Board for the year 2010.

Resolution # 2-2010

Election of Vice Chairman

Resolution by Bill Tomkins

Seconded by Carl Thygesen

And passed unanimously by said Board;

RESOLVED, that the Planning Board hereby appoints Jeff Duxbury as Vice Chairman to the Planning Board for the year 2010.

Chairman Tomkins stated that he would like to leave the committees as they are until the full Board is present. Until further discussion the Committees for the year 2010 are as follows:

- Site Committee – Kyle Vandewater and Dan Spigner
- Environmental Review/Flood Plain – Jeff Duxbury and John Mattison
- Liaison Waterfront Revitalization Plan – Dan Spigner

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**New Business:**

**01/14/2010**

**Minor Subdivision # 481 – Richard & Sharon Badgeley (designated agent: Dorothy Yurschak). Proposal for a 4 lot subdivision of a 189.60 +/- acre parcel located at 1 Dundon Lane. Tax Map ID # 212.-1-14. Lot 1 - 65.087 +/- acres with an existing house, barn and garage. Lot 2 – 36.063 +/- acres. Lot 3 – 75.821 +/- acres and Lot 4 – 12.631 +/- acres. Rural Agricultural Zoning District.** An application and one map were received by the Clerk. Chairman Tomkins stated that the applicant did not need to be present at the Workshop Meeting. There were no perc test results. The Board reviewed the map and the deed. There are two deed restrictions listed which Chairman Tomkins read:

1. Notice of Historic Structure – Pursuant to Executive order 11593, “Protection and Enhancement of the Cultural Environment.,” The purchaser (Grantee herein) of the above described real property covenants and agree with the United States acting by and through Farm service Agency (Grantor herein) that the historical or architectural aspects of the below described structures located on the subject property, as of the date of this quitclaim deed will be preserved and maintained *in accordance with plans approved in writing by the NY State Historic Preservation Officer and Farm Service Agency*. This covenant shall be binding on the Grantee and Grantee’s heirs, assigns, and successors, and will be construed as both a covenant running with the subject property and as an equitable servitude. The Farm Service Agency may for good cause, modify or cancel any or all of the foregoing restrictions upon written application of the grantee, his heirs or assigns. The structures affected by this restriction are as follows: 1) The brick house 2) The Dairy Barn.
2. Notice of Archaeologically Sensitive Area – Pursuant to Executive Order 11593, “Protection and Enhancement of the Cultural Environment.,” The purchaser (Grantee herein) of the above described real property covenants and agree with the United States acting by and through Farm service Agency (Grantor herein), as of this date of this quitclaim deed *should a change in land use occur which is more intensive than that presently in place, the Farm Service Agency and the State Historic Preservation Officer must approve in writing plans for the proposed change*. This covenant shall be binding on the Grantee and Grantee’s heirs, assigns, and successors, and will be construed as both a covenant running with the subject property and as an equitable servitude. The Farm Service Agency may for good cause, modify or cancel any or all of the foregoing restrictions upon written application of the grantee, his heirs or assigns.

Chairman Tomkins stated that the first deed restriction implies that there is a plan approved in writing and the Planning Board would need to see such plan. He further stated that in the second deed restriction any subdivision, he would think, would require that the State Historic Preservation Officer be consulted and there be a written agreement as to what can and can not be done. Tony Izzo stated that the statement “more intensive” could mean different things. Chairman Tomkins stated that if the lots are to be buildable lots, that would be a more intensive use and it is the Planning Board’s obligation to have the applicant get the required documentation.

Zoning Board Member Tammara VanRyn asked if this applicant did not want to subdivide them as individual buildable lots, how would that work with the purchasers? Chairman Tomkins stated that any applicant has two choices in a subdivision. 1) Propose a buildable lot, which demonstrates that there is sufficient area for house, well, septic and driveway. 2) Propose a non-buildable lot, which is identified as such on the approved subdivision. There can be no building permit unless the purchaser comes back

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to the Planning Board and has it approved as a buildable lot. More discussion ensued regarding what triggered the four lot “cap” on a parcel being subdivided. Chairman Tomkins stated that the Subdivision Regulations state that: *“Any subdivision of a parcel of land within three years of the final approval of a previous subdivision or all or portion of the same parcel. Application for a further subdivision of any portion of a minor subdivision within a period of three years from the approval date of the original subdivision shall constitute application for a major subdivision, regardless of ownership of any portion of the minor subdivision.”*

Tammara VanRyn read Zoning Section 190-71. Subdivision Standards B. which states: *Within the Rural Agricultural District, the three-hundred-foot frontage requirement in the area table does not apply, provided that no more than four lots are being subdivided and all of which have access to a public, Town, county or state highway, from a parcel from the date of enactment of this chapter. For purposes of this section, parcels that are contiguous and in the same ownership at the time of enactment of this chapter shall be considered to be a single parcel for all subsequent subdivisions.”* Tammara stated that she was under the impression that once a parcel had been subdivided into four lots, those four lots could not be further subdivided.”

Chairman Tomkins stated as a practical matter that letter C. would make it harder to do that. *“All lots fronting on new roads in the Agricultural District built after the date of enactment of this chapter shall be required to have 300 feet of road frontage regardless of whether or not they are the first four lots subdivided from a parcel.”*

More discussion ensued.

**New Business:**

**01/14/2010**

**Zoning Board of Appeals – Zoning Ordinance Interpretation Challenges:** ZBA Chairman John Farndell stated that there were some issues that came up this year that the ZBA would like to discuss with the Planning Board.

**1. Signs less than 10 Sq. Ft. but more than 4** – Signs under 10 Sq. Ft. are not currently regulated and do we want to regulate them? The ZBA would suggest changing this to signs less than 4 square feet. The ZBA offered an interpretation, which was forwarded to the Planning Board, which will be fine for now.

**2. Home Occupations (There was some discussion whether 190-63 A. was limited only to residential districts by reference to 190-63 A (1). Most of the ZBA did not think so, but it was not clear. One member wondered why Home Occupation Type 2 requires a SUP rather than a SPR)** – Tammara VanRyn read section 190-63 A. 1 which states: *“Ensure compatibility of home occupations with other uses permitted in residential districts.”* This was interpreted by one of the ZBA members as you could only have a Home Occupation in a residential district. Chairman Tomkins stated that the use table has Home Occupations permitted in each district either as a principal permitted use or a special use permit. Attorney Izzo stated that you can certainly live in a non-residential district and where there is a residential use there can be a home occupation. Tammara VanRyn stated that the other question was why was a special use permit required and not a site plan review application. Chairman Tomkins stated that there may be something noxious and a special use permit gives the Planning Board a tool to disapprove an application based on noise, etc. which would be a problem to the neighbors.

**3. Time Limit for Damage Restoration (In 190-77 B. the ZBA felt the 30 day notice to the Code Enforcement Officer was too short a time limit)** – ZBA Chairman John Farndell stated that a gentleman had a tree come down and go through his garage during an ice storm. The garage was in existence at

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the time the Zoning Ordinance was adopted but is within the setbacks. According to Section 190-77 B. *"...the structure shall not be restored unless, if within 30 days after the substantial damage, the owner of said nonconforming structure notifies the Code Enforcement Officer, in writing, of his intent to restore said nonconforming use substantially to the conditions existing prior to the disaster..."* The Zoning Board ended up giving the applicant an area variance. Discussion ensued regarding how a homeowner would even know about this rule. Jeff Duxbury asked if Dan saw the problem, would he stop and inform the homeowner about the law? Code Enforcement Officer Dan O'Connor stated that he wouldn't do that because the owner already was having a bad day and he wouldn't want to add to that. Zoning Board Chairman John Farndell stated that 6 months might be better but asked Dan. Dan believes that 30 days was not enough time and suggested changing it to one year. The members of the Planning and Zoning Board present were fine with changing the 30 day limit to one year.

**4. Buses/Livery (ZBA thought there might be a need for a livery/transportation business definition and allocation on the use table)** – John Farndell stated that this question came up with a person who has buses for her home occupation on Langley Hill Road. There is nothing that allows the Planning or Zoning Board to look at a livery or transportation business. Planning Board Chairman Tomkins asked Attorney Izzo to come up with a definition of livery/transportation which could also be added to the use table. ZBA Chairman John Farndell suggested a Special Use Permit for the Rural Agricultural District and a Site Plan Review Application for the Industrial District. (area requirements will be determined at a later date)

**5. Senior/Independent Living (One man asked about whether he could build a senior living facility and what it would come under. The ZBA believed it was a multi-family housing, he would have preferred a separate category)** – ZBA Chairman John Farndell stated that the ZBA wondered if this was something that should be added to the use table but didn't think so. Chairman Tomkins stated that he didn't see a reason to add it to the use table. The applicant was told which districts it would be allowed in and that is what should have been done. The Zoning and Planning Board members present were fine with not adding this to the use table.

**6. Setbacks Barns vs. Garages ( ZBA noted that the set backs have a potential loophole by exempting agricultural buildings completely; if you call your barn a garage you need the required lot line set backs, if you call it a barn it is exempt as a agricultural structure. The agricultural structure definition does not require the barn to be in active agricultural use.)** – Chairman Tomkins read section 190-5 Definitions: *"Agricultural Structure – Any barn, stable, shed, silo, garage, farm housing, farmstand less than 500 sq. ft., observation tower or other structure directly and customarily associated with agriculture or forest management activities."* The definition does not say "actively". Tammara VanRyn stated that a barn could be used as something else. Chairman Tomkins stated that the existing agricultural structure may not have to comply with set back requirements, but the actual use inside that structure would have to comply. Attorney Izzo stated that the definition could be changed to read "an agricultural structure that contains a non-agricultural use is not an agricultural structure". The Planning and Zoning Board members present would like to change the definition to include Tony's statement.

**7. Auction Facility** - ZBA Chairman John Farndell stated that there is not any definition for this in the ordinance and the ZBA thought there should be. The Planning Board agreed and Tony Izzo will submit a definition for the Boards to review at the next meeting. Tony offered a suggestion that the definition state – a retail use that does not include private property to liquidate private items. An Auction Facility

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would be allowed in the Rural Ag district and require a Special Use Permit. (area requirements will be determined at a later date)

**8. Mr. Hayes – Robertson Road** – ZBA Chairman John Farndell stated that this gentleman would like to put a barn next to his house and is applying for a variance because it would within the setbacks. He will have to prove that the barn can not be placed anywhere else on the lot. ZBA Chairman John Farndell stated that this was an approved subdivision and under Section 190-78 C. 2. Non Conforming Lots – Any lot on an approved final plat...with area dimensions of less than the specified minimum lot requirement of this chapter and not in compliance with the minimum standards set forth in Section 190-9 shall be exempt from compliance with this chapter, and no variance shall be required...” Chairman Tomkins stated that there is no minimum lot size in the Agricultural District.

Chairman Tomkins asked ZBA Chairman John Farndell what was the next step? ZBA Chairman John Farndell asked if the Board would like to discuss area requirements for the new uses that will be added? Chairman Tomkins suggested getting the items discussed down on paper and filling in the blanks at a later date. The Boards decided to meet again jointly at the February 11<sup>th</sup> Planning Board Workshop Meeting.

Chairman Tomkins asked Code Enforcement Officer Dan O’Connor where we stood on the Junkyards as Stu Maguire never completed his Special Use Permit. Dan stated that two of the junkyards no longer exist. He will contact Stu Maguire as soon as possible and get back to the Board at the next meeting.

Jeff Duxbury stated that the Town Board requested to meet with the Planning Board. Chairman Tomkins suggested inviting them to the February 19<sup>th</sup> Meeting.

A motion by Jeff Duxbury, Seconded by John Mattison that the meeting be adjourned at 8:55 pm.

Respectfully Submitted,

Kellie A. Blake  
Planning Board Clerk