

**Town of Greenwich  
Planning Board Meeting Minutes  
04/21/2011**

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

**Members Present:** William Tomkins, Jeff Duxbury, Dan Spigner (7:05), John Mattison, Michelle Wright and Erika Sellar Ryan.

**Members Absent:** Kyle Vandewater.

**Also Present:** Clerk Kellie Blake, Planning Board Attorney Tony Izzo and Town Supervisor Sara Idleman.

**Members of the public who signed the attendance sheet:** Erik & Lilian Skonberg, Steven & Christine Johnson, Carol Hopper, Michael Parker and Kyle McPhail.  
Several people did not sign the attendance sheet.

**Correspondence:**

- Letter received from Ralph Vecchio regarding Special Use Permit 2011-01 – Motocross
- Letter received from Gary Humiston regarding Special Use Permit 2011-01 – Motocross

**Old Business:**

**04/21/2011**

**Informal Review –**

**The following is an excerpt from the 04/14/2011 meeting:** *“ Mr. Gilchrest, who lives in Granville, came before the Board to ask what he needed to do to have a mobile hotdog cart in the K-mart parking lot. The unit is self-sustained and is removed when he leaves for the day. He has spoken to the Manager of K-mart who gave him permission to set up the hotdog stand and further stated that he has the authority to allow the hotdog cart in the parking lot. It is a verbal agreement not a lease.”...“The Board was in agreement that this would be considered part of the use of the shopping center therefore not requiring a Site Plan Review. Chairman Tomkins stated that the Board could tell Mr. Gilchrest this tonight but next week at the regular meeting a formal decision will be made and a letter can be sent to Mr. Gilchrest.”*

Resolution # 17-2011  
Mobile Hot Dog Vendor – K-Mart Plaza

Resolution by Michelle Wright  
Seconded by John Mattison

Discussion: Jeff Duxbury stated that he read the minutes of the last meeting and found it interesting that the Board reached this decision. His opinion is that Mr. Gilchrest is a separate vendor not occupying space that already exists in the shopping center. It is a gray area.

Chairman Tomkins stated that it is a gray area and there are things that take place in front of the plaza.

Jeff Duxbury stated that annual sales at the plaza have not been addressed in the past, but now with Zoning should they be?

Chairman Tomkins stated that he thought that when K-mart does its annual sale it would be grandfathered because they have been doing it for years. This issue should be brought up at the training session with Stu Mesinger.

Jeff Duxbury stated that with our Zoning if a particular use is not in the ordinance it is not allowed. He thought it was an interesting decision and the Board seemed to be secure in their decision.

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and passed unanimously by said Board;

RESOLVED, that Planning Board Clerk Kellie Blake is directed to provide Mr. Gilcrest with a letter stating that after consideration by the Planning Board that his mobile hot dog stand is considered part of the use of the K-Mart Shopping Center therefore no Site Plan Review Application is required.

**Old Business:  
04/21/2011**

**Site Plan Review # 2011-01: Greenwich Partners, LLP (designated agent: Bohler Engineering, LLC). Proposal for the construction of a one-story 19,100 sq. ft. retail building with a 14,500 sq. ft. outdoor storage area adjacent to the existing CVS Plaza on State Route 29. The proposed retail building will replace an existing 3,200 sq. ft. office building. Tax Map ID #'s 228.-3-9.12 & 9.10.** A letter was received from Bohler Engineering. Chairman Tomkins read the letter into the minutes as follows:

Dear Mr. Tomkins: On behalf of the applicant, Greenwich Partners, LLP, I formally request an extension of the statutory approval date to May 19, 2011. This extension will afford us time to work with our tenants, our contractor and the Town to insure we can create a quality, cost-effective project. Thank you for your on-going cooperation in this matter. Please contact me with any questions. Sincerely, Daniel S. Clarey, Bohler Engineering, LLC.

Resolution # 18-2011  
Extension of Statutory Board Approval Date

Resolution by Michelle Wright  
Seconded by Jeff Duxbury

and passed unanimously by said Board;

RESOLVED, that Planning Board agrees to the requested extension of the Planning Board's statutory approval date of Site Plan Review # 2011-01 until May 19, 2011.

**Old Business:  
04/21/2011**

**Special Use Permit # 2011-02 – Carol Hopper, 102 Hill Street. Proposal for the conversion of the first floor of one of the buildings currently being used for storage to an apartment. There are currently two apartments on the second floor of the building. No additions to the footprint of the building. Parcel is located in the Residential Zoning District. Tax Map ID # 236.8-1-22.** Ms. Hopper supplied a copy of her deed as needed from the last meeting.

Resolution # 19-2011  
SUP 2011-02 Deem Complete, Refer to County, Set Public Hearing

Resolution by John Mattison  
Seconded by Jeff Duxbury

Discussion: Planning Board Chairman Tomkins stated that there isn't really a septic system, it is a cess pool and wondered if adding an additional apartment would be an issue. It is a concern for him. Erika Sellar Ryan stated that Ms. Hopper had said that Snell Septic had dug up the cess pool and said it was in good working

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order. Erika Sellar Ryan asked if Ms. Hopper could provide a written report from Snell Septic. Chairman Tomkins stated that would be useful.

and passed unanimously by said Board;

RESOLVED, that Special Use Permit # 2011-02 be deemed complete, referred to the County Planning Board for review and set a public hearing for Thursday May 19, 2011 at 7:15 pm.

**Fees Received: \$75.00 Application Fee and \$182.82 Certified Mailing Fees.**

Acceptance of Minutes:

Resolution # 20-2011  
Approval of Minutes

Resolution by John Mattison  
Seconded by Jeff Duxbury

Erika Sellar Ryan abstained from the vote on the minutes of March 17<sup>th</sup> as she was not in attendance.  
and passed by said Board;

RESOLVED, that the minutes of the March 10<sup>th</sup> and March 17<sup>th</sup> Planning Board Meetings be approved as submitted.

**Public Hearing:  
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**Minor Subdivision # 491 – Steven Johnson – Proposal for a four lot subdivision of two parcels located on Christie Road. Parcel ID # 214.-1-9.9 consisting of 10.48 Acres and Parcel ID # 214.-1-9.8 consisting of 6.81 Acres. Parcel is located in the Rural Agricultural Zoning District.** Chairman Tomkins opened the public hearing for Minor Subdivision # 491 at 7:15 p.m. He called for all interested members of the public to step forward and examine the maps. Eight out of nine of the adjoining owners had responded to the notice of the public hearing. Chairman Tomkins read a letter received from Carosan Corp, J. Reingold which stated:

Town of Greenwich Planning Board, Attention: Kellie Blake. Thank you for 04/21/11 fax of map. Carosan Corp adjoining land owner objects to subdivision for following reasons: 1) Separation of McNaughton Cemetery & homestead on different lots without general public comment about this historic site is not in best interests of community. 2) Citing house at extreme northern border of lot # 4 is insensitive to Carosan, Skonberg and McNaughton site. Citing house at southern end of lot 4 (see map) seems like an equally good solution unless further subdivision into 4A & 4B is selling point to a future owner. Thank you for your consideration. Respectfully, J. Reingold for corp. Chairman Tomkins asked if anyone from the public would like to speak.

Mr. Erik Skonberg stated that he lives across the street and adjacent to the subdivision. He objects to the subdivision because this is a significant historical property. It was the McNaughton homestead settled in 1765 and any event that happened in the 18<sup>th</sup> century in this county is directly or indirectly associated with this property. He sited some additional historical facts. Mr. Skonberg further stated that it was a shame to separate the cemetery from the house. It isn't known where the boundaries of this cemetery are and there are many unmarked graves. The house is eligible for landmark status. The fields are in pristine condition, there is no barb wire or fencing or abandoned farm equipment. It is a wonderful window into our history. If this land is developed and subdivided we can never replace that. He stated he had one other objection; he objects to Mr. Johnson having the subdivision put on the market on April 15<sup>th</sup> well before this meeting.

Mr. Johnson asked if he could address the issues.

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Chairman Tomkins stated that as long as the comments were kept civil he didn't mind people addressing each other.

Mr. Johnson stated that in regards to the comment that the property was put on the market too soon; he currently has two parcels and those two parcels were put on the market, he has spoken to an agent about offering all the parcels for sale after the subdivision is complete. As far as the cemetery and the house site being on the same property; is essentially possible but history doesn't change with boundaries. The original parcel was even larger than it was now. The cemetery will always remain accessible to the public.

Mr. Skonberg stated that it is a shame that we don't know our own local history.

Erika Sellar Ryan asked Mr. Johnson if access to the cemetery would be included as an easement in his deed so that people wouldn't be trespassing across the property to get to the cemetery.

Mr. Johnson stated that the cemetery is public property and access can not be prevented and that would be stated in the deed.

Chairman Tomkins stated that there are many cemeteries in the town in this situation. Chairman Tomkins was under the impression that in the absence of maintenance the Town had to take over maintenance of the cemetery.

Jeff Duxbury asked Planning Board Attorney Izzo if there would be language in the deed to provide access to the cemetery. He cited another instance where a private family sold property but wanted to retain access to the cemetery.

Planning Board Attorney Izzo asked if this cemetery had status as a historical site. He didn't hear anything in the discussion to support that.

Mr. Skonberg phoned Washington County and there is not. The only way the County would get involved is if there was development on the property and then there would be archeological digs.

Planning Board Attorney Izzo stated that he wasn't sure what the Board could impose in this instance, it is a privately owned piece of land that historically has not been designated as a State or Federal site.

Jeff Duxbury asked Erika Sellar Ryan if something was brought to the attention of the Board in regards to historic preservation would SHPO get involved. Erika Sellar Ryan stated that it would be handled through the SEQR process, but the SEQR form asks if it is a designated historical site.

Chairman Tomkins stated that there was another public hearing scheduled, this hearing was left open.

**Public Hearing:**

**04/21/2011**

**Special Use Permit 2011-01: Steve Coffin 379 Anthony Road (designated agent: Michael Parker). Proposal for a closed course motocross recreational facility. No new buildings will be erected. Tax Map ID # 212.-1-4.**

Chairman Tomkins opened the public hearing for Special Use Permit # 2011-01 at 7:30 p.m. He called for all interested members of the public to step forward and examine the maps. All five of the adjoining owners had responded to the notice of the public hearing. The Planning Board had also mailed a copy of the Public Hearing Notice to all parcels within approximately 1 mile. Chairman Tomkins stated that the Board had received two letters and read them into the minutes as follows:

**Letter # 1 – Ralph Vecchio,** Dear Sirs, I am writing in opposition to the application of Steven Coffin for a Special Use Permit to operate a commercial motor cross facility on property at 379 Anthony Road in Greenwich. I submit that the application must be rejected by the Planning Board because it, together with the minutes of preliminary Planning Board discussions with the applicant, fails to provide sufficient facts to support the determinations required by Section 190-32 of the Town of Greenwich Zoning Law. The information presented so far is anecdotal or speculative and unless those deficiencies are cured with respect to all the standards which the Board is required to consider under Section 190-32 and upon which it must base its final determination the application must be denied. The details which are critical to the determination should at least include: The maximum hours of operation; the maximum number of vehicles that will operate

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at one time; the frequency and duration that the vehicles will operate on the track; the maximum noise level from the operation of vehicles on the track; the distance that the noise will carry at the maximum levels; the number of spectators that will be accommodated; the sanitation, food and medical facilities that will be provided for spectators and participants; the effect on property values from the operation of the motor cross track.

In short, how many bikes can be run at one time, for how long, over what period of time, and what is the noise level they will make, how far will the noise carry, how much traffic will it produce from competitors and spectators and what will all that do to the value of property in the vicinity, especially for those owners who might want to sell or develop for residential purposes in the future?

It is important to note that there is a significant difference in the perceived nuisance from the personal and sporadic operation of a few dirt bikes and, for example, the regular running of races with 25 or more bikes on weekends and practice sessions on weekdays into the evening hours with as many bikes as the track will accommodate. This example was taken from an actual nuisance case where the objectionable noise carried over a mile. It is easy to see from this example that it is important to know exactly what the applicant has in mind.

As I said above, the application only addresses these issues superficially and therefore does not form a basis on which the Board can make a decision in compliance with the requirements of Section 190-32, particularly subdivisions A (noise & nuisance), B (community services and roadways), F (traffic), G (future development) and J (protection against adverse impacts).

Therefore, I oppose the application and ask that it be rejected with permission to resubmit the application with the data specified above. Alternatively, the decision should be postponed until the applicant submits the above information and a hearing held in the light of that information. Respectfully, Ralph J. Vecchio. 114 Dundon Lane.

**Letter # 2 – Gary Humiston:** Board Members, I firmly believe a landowner should be able to use their land as they wish, as long as the land use does not interfere with the neighbors lives. Land usage that have issues of bad smells and/or loud noise are land use issues that can not be contained within the landowners boundaries and therefore neighbors should have a say in allowing such uses.

I know loud mufflers and tuned pipes with stingers are part of any dirt bike, ATV or snowmobile racing. I also know these vehicles run very well with quieter or silenced muffler, just not as fast and powerful. You can break your neck at 30 mph as well as 50 mph.

This Board needs to put in place strong, enforceable and monitored restrictions on noise levels allowed. Establish reasonable hours of operation and forbid alcohol use at this facility. Board members should attend a demonstration run with 6 or 8 bikes with high performance exhaust and a run with quieter and silenced exhaust systems.

I would also hope this Board is wise enough to contact other townships or municipalities that have allowed this type of facility to operate and discuss the unforeseen consequence of this type of entertainment.

Because dirt particles on the track will be beaten down, finer and finer by the traffic, dust will be a bigger and bigger problem. Should a fence be put around the facility to prevent unauthorized use?

Quality of life may be an overused phrase but if someone was to describe county/rural living the two words that best describe it are peace and quiet. Sitting on our deck last summer with the leaves on the trees and a slight breeze my wife and I would have to raise our voices or cease conversation entirely until the noise from the bikes quieted down.

Here's hoping Steve and Mike can envision the shoe being on the other foot and will realize the concessions being asked for are not unreasonable.

Gary Humiston, Sanders Brothers Farm 1594 Lick Spring Road.

Chairman Tomkins asked if anyone else from the public would like to comment.

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Gail Fraser – Cottrell Road stated that she is baffled that the Board could even begin to assess this without demanding an independent environmental impact analysis. Many people are going to be impacted from the noise and it is the Board's responsibility to state specifically what the noise will be and what range. Traffic, erosion and dust should be taken into consideration also.

Mr. Johnson stated that his property on Christie Road was approximately a mile from the tract. Chairman Tomkins stated that was a different motocross track.

Dale and Al Waite – Cottrell Road – did not receive a letter, but heard about the hearing from her neighbors. Concerned mostly about the noise level. There is a lot of information that people need to know before the Board acts on the application.

Chairman Tomkins stated that the Board is obligated to notify the adjoining property owners within 500 feet. In this case the Board did a radius of approximately 1 mile to notify more of the public.

Gail Fraser stated that shows that the Board is aware there is an extended impact on property owners. This is a significant part of town. Our property values will go down in addition to ruining our quality of life.

An unidentified gentleman asked the Board or Mr. Parker to define "closed circuit". Are the vehicles going to stay in one area?

Chairman Tomkins stated that it is a track that meets. The Board won't be there every moment to supervise the business. The Board's intention was to put a time limit on the Special Use Permit to examine how it was working after a certain period of time. The applicant would have to abide by any conditions set forth by the Board; at this point those conditions are not spelled out yet. The Board has to abide by the rules set forth in the Zoning Ordinance.

Chairman Tomkins asked if Mr. Parker would like to speak.

Mr. Parker stated that the track has been there for almost 10 years. Generally he and his friends are there on the weekends, some week nights. There have been 30 bikes at least half a dozen times last summer. He has spoken to many of the neighbors and was surprised that the sound didn't really carry. Don Wilbur, who lives on Anthony Road, said he read about it in the paper and didn't even know it was there. Mr. Parker stated further that he will be installing a sprinkler system to keep the dust down. We don't want to have an adverse impact on the neighbor's property which can't be proved one way or the other until the track is actually running.

Chairman Tomkins stated that in the Zoning Ordinance certain businesses are permitted by right in certain Zoning Districts. A Special Use Permit is for businesses that may fit in a certain district but not everywhere in that district.

Dan Spigner asked Ms. Fraser where she lived and if she had heard the vehicles at all.

Ms. Fraser stated that last year they had heard a very low buzzing noise from their backyard. Concerned about impact on real estate values.

Ms. Waite stated that there had been people riding on her road and behind their house.

Mr. Parker stated that having a place where they can ride reduces the amount of bikes that end up in places they shouldn't be. There are limited places to ride. It is a good location as far as sound not carrying, we are surrounded by trees.

Mr. Bressler of Easton stated that has belonged to gun clubs and they limit the hours and days that you can shoot, which goes back to a Special Use Permit. During the spring and late fall the leaves are off the trees and noise carries farther, so that should be taken into consideration. The track in Eagle Bridge had to be watered on dusty days. In the Special Use Permit the public would have to know what the set hours would be and what days the track would be run.

Ms. Fraser stated that she didn't want it there at all.

Mr. Bressler stated that living in a rural farm community you hear "choppers" running late at night. We hear tractor trailers hitting their "jake" breaks coming down Route 40. This is a hard decision for the Board to make.

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With no further comments or questions from the public Chairman Tomkins closed the public hearing on Special Use Permit 2011-01 at 7:52 pm.

The Board had the following comments or concerns:

- Board does not have to act tonight, has 62 days to act. Go back and look at what kind of restrictions we want to put on it.
- Kyle was concerned mostly about the configuration of the map and the map was corrected.
- Board should go out and have a demonstration when the leaves are on the trees. Spoke about possibly at the May 12<sup>th</sup> work session if there are leaves on the trees. Meeting would start at the Town Office and adjourn to the site.
- Planning Board Attorney Izzo stated that regulating noise is not easy because sound travels differently in different areas. What seems noisy to one person is not to another. Hours of operation are straight forward as well as watering the track. Might want to focus on things that are more easily objectively measured.
- Gray area as far as days of operation, Mr. Parker should come up with a proposal for days and hours.

**Public Hearing: - Continued from earlier...**

**04/21/2011**

**Minor Subdivision # 491 – Steven Johnson – Proposal for a four lot subdivision of two parcels located on Christie Road. Parcel ID # 214.-1-9.9 consisting of 10.48 Acres and Parcel ID # 214.-1-9.8 consisting of 6.81 Acres. Parcel is located in the Rural Agricultural Zoning District.** With no further comments or questions from the public Chairman Tomkins closed the public hearing on Minor Subdivision # 491 at 8:02 pm.

Dan Spigner stated that even if the cemetery was with the house that doesn't mean the public will have more access to the cemetery.

Chairman Tomkins stated that the cemetery is no more accessible to the public as one parcel as it will be with two parcels.

Attorney Izzo stated that a private person owns the cemetery.

Mrs. Johnson stated that she called the State and was told that they did not own the cemetery, if a stone fell over they couldn't get rid of it they had to leave it where it was or put it back upright. They could not put a fence around it and keep people from going to it.

It was decided that Planning Board Attorney Izzo and Erika Sellar Ryan would get together to write a plat note that could be added to the Subdivision Map. Another way would be to add a restriction to the deed. This will be discussed at the May meeting.

Chairman Tomkins stated that one of the letters stated that the placement of the proposed house was close to him, there is a slope issue on the other part of the property. Chairman Tomkins stated that this was a proposed building site; they just can not build within the setbacks.

A motion was made by Michelle Wright, seconded by John Mattison that the meeting be adjourned at 8:20 pm.