

**Town of Greenwich
Planning Board Meeting Minutes
06/16/2011**

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

Members Present: William Tomkins, Jeff Duxbury, Dan Spigner, John Mattison, Michelle Wright and Erika Sellar Ryan.

Members Absent: Kyle Vandewater.

Also Present: Clerk Kellie Blake, Planning Board Attorney Tony Izzo, Planning Board Engineer John Hartnett and Code Enforcement Officer Dan O'Connor.

Members of the public who signed the attendance sheet: Dan Clarey (Bohler Eng.), Charles Jesman and John Carr (Schuyler Companies), Lillian Hakala, Diane Kelley, Dorothy Yurschak, Leon Barkley, Michael Parker, Bruce Agard, Kyle McPhail and Caryn Tindal.

Old Business:

06/16/2011

Minor Subdivision # 493 – Lillian Hakala, 13 Sloan Drive. Designated Agents: Diane Kelley and Dorothy Yurschak. Parcel currently has one tax map ID number and tax bill but two separate deeds. Parcel ID # 229.-1-10.9. Proposal for the creation of a buildable lot consisting of 1.25 acres which is a separate deed. An application was received and perc tests were done. Erika Sellar Ryan recused herself from this application. Chairman Tomkins gave a recap of this application for the benefit of members that were not in attendance last week. Mrs. Hakala has two deeds for a parcel that has one tax map ID and receives one tax bill. The Board reviewed the original subdivision at the meeting last week and the parcel in question was not given a lot number nor were there perc tests or a proposed house site delineated for the parcel and it was thought to have been for a potential recreational area. The Hakala's purchased the parcel where their house is now and purchased this lot separately at a later date. The two separately deeded parcels were merged by the County or a former Assessor. Last week the Board stated that this would indeed be a subdivision and considered two items. 1) Possibly waiving the lot and recreation fees as this was already a separately deeded parcel. 2) Declare the application complete based on the deed description they already have without having a formal survey map and setting the public hearing for next month with the understanding that the maps be received by July 5, 2011. Discussion ensued and Chairman Tomkins asked what the Board thought.

Erika Sellar Ryan – recused.

John Mattison – was comfortable with it.

Jeff Duxbury – appreciate that time is of the essence but doesn't want to set a precedent allowing a Public Hearing to be set for an application without a map.

Michelle Wright – agrees with Jeff, could start down a path to cut corners and we could get in trouble.

Dan Spigner – ok with it.

Chairman Tomkins – ok with it.

Attorney Izzo stated that a way to differentiate this application from a complete application is that there could be enough information as public record already that no additional information is needed. If you feel you have enough information then you may have grounds to do this.

Dan Spigner stated that last week he felt there was enough information, for some reason it wasn't clarified as a buildable lot, it is a separate lot on the map, without a number.

Chairman Tomkins asked Planning Board Attorney if approving this would take a majority of the members present or a majority of the entire Board. Attorney Izzo reviewed the Planning Board By-Laws which stated:

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“Section 5 – Voting: A majority vote of the Board shall be necessary for the adoption of any proposed action, resolution or other voting matter.” Planning Board Attorney Izzo stated that the resolution would require the majority of the entire Board not just those present.

A motion was made by Chairman Tomkins that Minor Subdivision # 493 be declared complete and a Public Hearing be set for 7:15 pm on July 21, 2011.

Motion seconded by Dan Spigner

Discussion: Chairman Tomkins stated that he feels we do in fact have all the facts we need. We have the per cent and the meets and bounds. Attorney Izzo stated that was one way to look at it, you have this information and it has been in the public record.

Chairman Tomkins called for a vote:

John Mattison	Aye
Michelle Wright	Nay
Jeff Duxbury	Nay
Dan Spigner	Aye
Erika Sellar Ryan	Recused
Chairman Tomkins	Aye
Kyle Vandewater	absent

Motion failed.

Public Hearing:

06/16/2011

7:15 pm - Site Plan Review # 2011-03 – J.C. Carmody, 1111 State Route 29. Proposal for the addition of a BBQ restaurant consisting of a portable BBQ, tent and picnic tables in front of the existing automotive sales and repair shop. Tax Map ID # 228.-2-20.1. Parcel is located in the Commercial Zoning District. Chairman Tomkins opened the public hearing for Site Plan Review 2011-03 at 7:15 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 certified mailing notice of the public hearing. Clerk Kellie Blake stated that the County had not sent out their comments regarding the referrals yet as the Chairman was out of Town but she had spoken to them and this application was found to be a “matter of local concern” with no comments. With no comments or questions from the public Chairman Tomkins closed the public hearing for Site Plan Review # 2011-03 at 7:17 pm.

Resolution # 32-2011
Negative Declaration SEQR Site Plan Review # 2011-03

Resolution by Jeff Duxbury
Seconded by John Mattison

and passed unanimously by said Board;

RESOLVED, that pursuant to part 617 of the New York State Environmental Conservation Law and upon review of the Short EAF by the Town of Greenwich Planning Board, that Site Plan Review # 2011-03 be granted a negative declaration.

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Resolution # 33-2011
Conditional Approval of Site Plan Review # 2011-03

Resolution by Michelle Wright
Seconded by Dan Spigner

Discussion: It was noted that this approval is for the tent portion of the restaurant only and that the Site Plan indicated a Phase II portion of an indoor restaurant.

and passed unanimously by said Board;

RESOLVED, that contingent on a plat note being added to the Site Plan specifying that Phase II is not included in this approval that Site Plan # 2011-03 be approved.

Old Business:

06/19/2011

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 stated that the Board had requested that Mr. Parker get decibel readings on this application. The outstanding matter is how to measure and determine what the noise level is and determine its acceptability. Mr. Parker has borrowed a decibel meter and what he needs is a way to structure the tests. Chairman Tomkins stated that we would ask Mr. Parker to present the Board a proposal. We would expect to see areas where the noise levels would be tested. What is the ambient noise level, what is the noise level with tractors going and what the level is when the motocross is operational and how many vehicles that consisted of.

John Mattison asked how the areas would be determined and what is "acceptable" as far as noise levels.

Mike Parker stated that he was going to do some research on other motocross facilities; there must be some kind of levels to go by.

Erika Sellar Ryan stated that in talking about the baseline noise, she doesn't think the baseline should be without tractors. In Washington County tractor noise is the baseline. In fairness to Mr. Parker, the baseline is with tractors running.

Chairman Tomkins stated that would be one approach. There are times when tractors aren't running and that would show what it was like when nothing was running.

John Mattison asked how many would be riding at once.

Mr. Parker stated that he had 10 or so vehicles running and he drove his truck around and listened and was surprised that he really had to listen to hear them in the area where the lady at the public hearing said she lived. If there are 40 bikes there they won't all be on the track at one time.

Chairman Tomkins stated that he had spoken to his environmental consultants (where he works) and he was told that this meter is very easy to read and doesn't require an engineer to read it. If Mr. Parker holds the meter and one or more of the Board is present for the readings that should be acceptable.

John Mattison stated that the Board talked about a one year conditional approval and this can be revisited next year.

Jeff Duxbury stated that Erika made a good point with the baseline including tractors. They are allowed and existing. If, for example, a tractor running and the level is say a 10 and with the bikes it is 11, that baseline isn't that far off as opposed to dead quiet and 11.

Erika Sellar Ryan stated that all summer there are pieces of farm equipment running.

Engineer John Hartnett stated that tractors are allowed by law and are the norm. What would be important would be what will satisfy the neighbors.

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Chairman Tomkins stated that the Board isn't obligated to make the neighbors happy but to take their concerns seriously. There has to be a finding regarding the impact.

Mr. Parker made a request to extend the Board's formal decision on his application until the July 21st meeting.

Resolution # 34-2011

Extension for Decision on SUP # 2011-01 Granted

Resolution by Michelle Wright

Seconded by John Mattison

and passed unanimously by said Board;

RESOLVED, that the request for an extension of the Board's formal decision on SUP # 2011-01 be extended until July 21, 2011.

Public Hearing:

06/15/2011

7:30 pm - Minor Subdivision # 492 – Tymetal Corp, John Hedbring. Proposal for a boundary line adjustment of two adjacent parcels. Parcel ID 228.-2-2.7 consisting of 3.07 +/- acres will be reduced to 2.20 +/- acres and Parcel ID # 229.-2-2.12 consisting of 11.11 +/- acres which will be increased to 11.98 +/- acres. Parcels are located in the Commercial Zoning District. Erika Sellar Ryan recused herself from this application. Chairman Tomkins opened the public hearing for Minor Subdivision # 492 at 7:30 p.m. He called for all interested members of the public to step forward and examine the maps. All thirteen of the adjoining owners had responded to the certified mailing notice of the public hearing. With no comments or questions from the public Chairman Tomkins closed the public hearing for Minor Subdivision # 492 at 7:32 pm.

Resolution # 35-2011

Negative Declaration SEQR Minor Subdivision# 492

Resolution by Jeff Duxbury

Seconded by John Mattison

and passed unanimously by said Board;

RESOLVED, that pursuant to part 617 of the New York State Environmental Conservation Law and upon review of the Short EAF by the Town of Greenwich Planning Board, that Minor Subdivision # 492 be granted a negative declaration.

Resolution # 36-2011

Approval of Minor Subdivision # 492

Resolution by Michelle Wright

Seconded by Dan Spigner

and passed unanimously by said Board;

RESOLVED, that Minor Subdivision # 492 be approved.

Fees Received: \$ 100.00 Minor Subdivision Application Fee (ck # 2645)

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New Business:

06/15/2011

Discussion on referrals to County Planning Board.

Chairman Tomkins stated that except for a few exceptions Site Plan Review applications have to be referred to the County for review. He would like to contact the County with a list of things that we would like to be considered exempt. This wouldn't require any amendment to the Town's Zoning Ordinance; it would help with the length of time in which applications can be approved.

Erika Sellar Ryan stated that the referrals are now being overseen by the County LDC and their view may be different than the previous way things were done.

Chairman Tomkins stated that if the Board created an appropriate list and got the County to agree, then if things like Carmody's BBQ came up we wouldn't have to have a public hearing, refer them to the County, be deemed a matter of local concern and lose a month. On any application the Board could still require a public hearing if they think there may be issues.

Erika Sellar Ryan stated that this all falls under General Municipal Law and the County Board of Supervisor's has to give the County Planning Board the authority to review such applications.

Chairman Tomkins asked the Clerk to put this on the next work session agenda to figure out what the Board would like on the list and propose it to the County. (A list of things excluded from County Planning Board Review)

Approval of Minutes:

The minutes of the April 14th as amended, April 21st, May 12th and May 19th Meetings were previously given to the Board to review. The Clerk read page 3 of the April 14th minutes 1st paragraph which originally stated: *"Mr. Carmody asked if in the meantime, if he had a car promotion and had a BBQ as part of that promotion would that be allowed. Michelle Wright stated to her that if he hired an outside person to come BBQ for a promotion that is acceptable. The rest of the Board agreed."* The amended minutes read: *"Mr. Carmody asked if in the meantime, if he had a car promotion and had a BBQ as part of that promotion would that be allowed. Michelle Wright stated, to her, that Mr. Carmody hiring someone to cater a promotion is no different than any other business doing the same. If it is ok for an outside caterer to provide refreshments, then it should be okay for Carmody to cater the even themselves. The rest of the Board agreed."*

Resolution # 37-2011

Approval of Minutes

Resolution by Michelle Wright

Seconded by Jeff Duxbury

RESOLVED, that the minutes of the April 14th as amended, April 21st, May 12th and May 19th Planning Board Meetings be approved as submitted.

Public Hearing:

06/16/2011

7:45 pm - Special Use Permit # 2011-03 – Caryn & Brian Tindal, 18 Mill Road. Proposal to hold dog agility runs in an existing fenced in area. Parcel located in the Hamlet/Mixed Use Zoning District. Tax Map ID # 198.20-1-19. Chairman Tomkins opened the public hearing for Special Use Permit # 2011-03 at 7:45 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 certified mailing notice of the public hearing. With no comments

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or questions from the public Chairman Tomkins closed the public hearing for Special Use Permit # 2011-03 at 7:47 pm.

Erika Sellar Ryan asked about the fence. Mr. Tindal stated that there was turkey wire on the fence and the dogs could not get out of the fenced in area.

Jeff Duxbury read the following from the Short EAF form:

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste disposal, potential for erosion, drainage or flooding problems? Explain briefly: *Noise levels- this is a renewable SUP after one year, Solid Waste Removal – pick up dog waste, traffic – parking shown on plan, no parking on Mill Road.*

Discussion on noise levels: Mrs. Tindal stated that her neighbor's dogs bark 24/7 non stop and said to the Board "Don't even go there". Michelle Wright stated that what the neighbor's dogs are doing is irrelevant to what the commercial business would be adding to that level. Jeff Duxbury stated that the Board could go with the applicant's word for the time being but when it is time to renew the permit the noise level can be looked at again. Dan Spigner stated that the Board has to look out for the public interest when reviewing applications. Michelle Wright stated that the Board has a responsibility to review the applications in all areas.

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: *Neighborhood character: Zoned Hamlet/Mixed Use.*

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: *NO IMPACT.*

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of land or other natural resources? Explain briefly: *NO IMPACT.*

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: *NO IMPACT.*

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: *NO IMPACT.*

C7. Other impacts (including changes in use of either quantity or type of energy)? Briefly explain:

NONE.

D. Will the project have an impact on the environmental characteristics that caused the establishment of a critical environmental area (CEA)? *NO.*

E. Is there, or is there likely to be, controversy related to potential adverse environmental impacts? *NO.*

Resolution # 38-2011
Negative Declaration SEQR Special Use Permit # 2011-03

Resolution by Jeff Duxbury
Seconded by John Mattison

and passed unanimously by said Board;

RESOLVED, that pursuant to part 617 of the New York State Environmental Conservation Law and upon review of the Short EAF by the Town of Greenwich Planning Board, that Special Use Permit # 2011-03 be granted a

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negative declaration.

Resolution # 39-2011

Approval of Special Use Permit 2011-03 Renewable in One Year

Resolution by Jeff Duxbury

Seconded by Dan Spigner

and passed unanimously by said Board;

RESOLVED, that Special Use Permit # 2011-03 be approved for a period of one year renewable in June 2012.

Erika Sellar Ryan advised the applicant to apply for a renewal a few months ahead of time so that there is not a lapse in the approved application.

Fees Received: \$ 75.00 Special Use Permit Application Fee

Public Hearing:

06/16/2011

8:00 pm - Site Plan Review # 2011-04 – Mihai Buretea (designated agent for Ben Grieco). Proposal to use a portion (approx. 2000 sq. ft.) of an existing building located at 109 Fiddlers Elbow Road as an office and a Research and Development Lab. Parcel is located in the Industrial Zoning District. Tax Map ID # 228.-1-2.1.

Chairman Tomkins opened the public hearing for Site Plan Review # 2011-04 at 8:00 p.m. He called for all interested members of the public to step forward and examine the maps. All six of the adjoining owners had responded to the certified mailing notice of the public hearing. Chairman Tomkins stated that he went on the DEC website to look at the category of the "Conditionally Exempt Small Quantity Generator" and basically it is small quantities of waste are stored on site and then removed. As long as the Board specifies that nothing goes into the ground and that the applicant follows the DEC rules then it is pretty straight forward. With no comments or questions from the public Chairman Tomkins closed the public hearing for Site Plan Review # 2011-04 at 8:03 pm. Chairman Tomkins stated that he thought the approval could be conditioned that the disposal of the waste met these standards.

Jeff Duxbury read the following from Part II of the SEQR form:

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste disposal, potential for erosion, drainage or flooding problems? Explain briefly: *Small chemical use and disposal. 6NYCRR 371.1 (R) Conditionally exempt small quantity Generator. Use general requirements for CESQG transportation – Acute hazardous wastes(not limited to) Follow 6NYCRR Parts 370 through 374 & 376.*

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: *No impact.*

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: *NO IMPACT.*

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of land or other natural resources? Explain briefly: *NO IMPACT.*

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: *NO IMPACT.*

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

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NO IMPACT.

C7. Other impacts (including changes in use of either quantity or type of energy)? Briefly explain:
NONE.

D. Will the project have an impact on the environmental characteristics that caused the establishment of a critical environmental area (CEA)? *NO.*

E. Is there, or is there likely to be, controversy related to potential adverse environmental impacts? *NO.*

Resolution # 40-2011
Negative Declaration SEQR Site Plan Review 2011-04

Resolution by Jeff Duxbury
Seconded by Michelle Wright

and passed unanimously by said Board;

RESOLVED, that pursuant to part 617 of the New York State Environmental Conservation Law and upon review of the Short EAF by the Town of Greenwich Planning Board, that Site Plan Review 2011-04 be granted a negative declaration.

Resolution # 41-2011
Approval of Site Plan Review # 2011-04

Resolution by Michelle Wright
Seconded by John Mattison

Discussion: John Mattison asked if anyone would be "policing" this operation. Dan Spigner stated that unfortunately DEC would come after an incident happened. Erica Sellar Ryan stated that in a previous meeting it was mentioned that Mr. Buretea would give the Fire Departments a copy of his MSDS sheets and where the chemicals are stored. The Board discussed making this a condition of the approval or not. It was decided that the Clerk would write Mr. Buretea a letter stating this requirement and to copy it to Middle Falls Fire Department and the Greenwich Fire Department.

and passed unanimously by said Board;

RESOLVED, that Site Plan Review # 2011-04 be approved and operated within the regulations of a "Conditionally Exempt Small Quantity Generator" as dictated in 6 NYCRR Parts 370 through 374 and 376.

Fees Received: \$ 100.00 Site Plan Review Application Fee (ck # 1130)

**Old Business:
06/16/2011**

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. Mr. Clarey stated that there will be a tree placed on the property to replace the one large tree they are removing in the front of the parcel. They are suggesting placing it next to the CVS plaza building to partially screen the transformers. Discussion ensued regarding the following:

- Drainage and stone spillway question – John Hartnett stated that this had been resolved.

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- Screening was placed behind CVS between the Residential and Commercial District parcels.
- Sidewalk extended towards Hannaford – grant authority to the adjacent property owner to extend the sidewalk.
- Approval conditioned on the septic being approved by DEC.

Jeff Duxbury read the following from Part II of the SEQR form:

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste disposal, potential for erosion, drainage or flooding problems? Explain briefly: *Ground water/surface water: retention pond for stormwater, septic system approval from DEC, Solid waste disposal container on property.*

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: *No impact.*

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: *NO IMPACT.*

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of land or other natural resources? Explain briefly: *NO IMPACT.*

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: *NO IMPACT.*

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: *NO IMPACT.*

C7. Other impacts (including changes in use of either quantity or type of energy)? Briefly explain:

NONE.

D. Will the project have an impact on the environmental characteristics that caused the establishment of a critical environmental area (CEA)? *NO.*

E. Is there, or is there likely to be, controversy related to potential adverse environmental impacts? *NO.*

Resolution # 42-2011
Negative Declaration SEQR Site Plan Review 2011-01

Resolution by Jeff Duxbury
Seconded by Michelle Wright

and passed unanimously by said Board;

RESOLVED, that pursuant to part 617 of the New York State Environmental Conservation Law and upon review of the Short EAF by the Town of Greenwich Planning Board, that Site Plan Review 2011-01 be granted a negative declaration.

Jeff Duxbury wanted to make sure that the granting of access would ensure that the sidewalk could be extended by the adjoining owner without the property having to be sold to them. Mr. Clarey stated that the intent was that they did not want to incur the cost of the sidewalk but would allow someone else to do so.

Resolution # 43-2011
Conditional Approval of Site Plan Review 2011-01

Resolution by Erika Sellar Ryan
Seconded by John Mattison

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and passed unanimously by said Board;

RESOLVED, that Site Plan Review # 2011-01 be granted approval conditioned on the Septic System being approved by DEC, the applicant shall grant authority to the adjacent property owner(s) to extend the existing sidewalk along the access drive as indicated on the plan and noting that one additional tree shall be placed on the property.

Chairman Tomkins asked the Board if new maps would be needed that would show the future extension of the sidewalk. The Board was ok with the conditions of the approval being sufficient.

Discussion ensued regarding having the Planning Board Engineer oversee the project. If we ask John to make occasional visits the Board would need an estimate from John and additional escrow monies from the applicant to pay for the fees.

Old Business:

06/16/2011

Suzanne Shumway – Livery

Michelle Wright stated that she didn't understand how they were designated as a "Livery" her understanding of livery is picking up/dropping off clients. She has been by the parcel many times and has seen clients there. John Mattison stated that he saw several of her clients crossing the road today. He further stated that they do pick them up and bring them places but there are times when the clients are at the property and there may need to be conditions on the application. Dan Spigner stated that we need more clarification from the applicant. Michelle Wright stated that living on the road she goes by the location daily and has seen clients there many times, not occasionally. She is not against the business; it needs to be looked at. Chairman Tomkins stated that the Board could ask who she is under contract with and what the contract is for. Code Enforcement Officer Dan O'Connor stated that he had gone and spoke with them and they came and got an application. Chairman Tomkins stated that the Board can't issue a Notice of Violation but would like to suggest that Code Enforcement Officer Dan O'Connor issue them one.

A motion was made by Dan Spigner, Seconded by Michelle Wright that the meeting be adjourned at 9:10 pm.

Respectfully Submitted,

Kellie A. Blake
Planning Board Clerk