

**Town of Greenwich
Planning Board Meeting Minutes
07/21/2011**

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

Members Present: William Tomkins, Jeff Duxbury, Kyle Vandewater, John Mattison, and Michelle Wright.

Members Absent: Dan Spigner and Erika Sellar Ryan.

Also Present: Clerk Kellie Blake, Supervisor Sara Idleman and Code Enforcement Officer Dan O'Connor.

Members of the public who signed the attendance sheet: Lillian Hakala, Diane Kelley, Dave Roberson, John Rich and Michael Parker.

Old Business:

07/21/2011

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. The following items are needed:

- Deed for the 229.-1-10.9 parcel.
- Location of perc tests delineated on the plat map
- Minor # 493 added to plat map.

Resolution # 44-2011
Minor Subdivision # 493 Public Hearing Set

Resolution by Michelle Wright
Seconded by Jeff Duxbury

and passed unanimously by said Board;

RESOLVED, that pending the addition of the perc test locations, Minor 493 being delineated on the map and receiving a copy of the deed that Minor Subdivision # 493 be deemed complete and a public hearing be set for Thursday August 18, 2011 at 7:15 pm.

Fees Received: \$100.00 Minor Subdivision Application Fee (ck # 519) and certified mailing fees of \$44.72 (ck # 518).

Old Business:

07/21/2011

Site Plan Review 2011-05-Tim & Linda Taylor, designated agent: Dave Roberson. Proposal to replace an existing house on a non-conforming lot that is in disrepair at 106 County Route 49. They would like to demolish the house and construct a new one attached to a garage that they acquired an area variance to build. The ZBA referred him to the Planning Board because of Section 190-75 (b) of the Zoning Ordinance. Tax Map ID # 215.-1-20. This parcel is in the Rural Agricultural Zoning District. The following is an excerpt from the 07/14/2011 Minutes: "Mr. Roberson went to the ZBA for an area variance. There is an existing house on a non-conforming lot that is in disrepair. He would like to demolish the house and construct a new one attached to a garage that he acquired an area variance to build. The ZBA referred him to us because of the following section of the Zoning Ordinance.

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Article X Nonconforming Uses, Structures and Lots

190-75 Change of use; repairs, maintenance, and structural additions.

Except as provided herein, no nonconforming uses or structure may be enlarged, extended, reconstructed, substituted or structurally altered.

(2) Nonconforming structures.

(b) A nonconforming structure which houses a conforming or nonconforming use which has deteriorated (through normal use or age of that structure) to a point where the structure needs to be replaced in order to ensure that the health, safety and general welfare of the occupants is safeguarded, or if the cost of maintenance and repair of the structure is not cost effective, may be replaced after a site plan review by the Planning Board. This review shall be conducted prior to when any demolition or removal of the structure begins. If the nonconforming structure is demolished or removed prior to review, it shall constitute an abandonment as regulated under Section 190-76 and shall not be replaced/reestablished.

Chairman Tomkins stated that this would now be less non-conforming than it was now. Chairman Tomkins looked at the County Referral Exemptions and this would be exempt from referral. The Planning Board has the option to waive a public hearing and this could be done at next weeks meeting and act on the Site Plan next week”.

Chairman Tomkins asked Planning Board Attorney Izzo his interpretation of this section of the ordinance. Tony stated that the applicant would have to submit proof that it was not cost effective to repair the house and then the Board could make a finding to that effect.

Code Enforcement Officer Dan O’Connor stated that he had been to the property personally and that it is definitely not cost effective to repair the house. This is also a better solution to the non-conforming lot.

Planning Board Attorney Izzo stated that Code Enforcement Officer Dan O’Connor’s statement would be sufficient.

The Board reviewed the application and it was complete. Chairman Tomkins stated that because this was residential it did not need to be referred to the County Planning Board for review.

Resolution # 45-2011
Negative Declaration SPR 2011-05

Resolution by Jeff Duxbury
Seconded by John Mattison

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 # 2011-05 be granted a negative declaration.

Resolution # 46-2011
Public Hearing Waived

Resolution by Kyle Vandewater
Seconded by John Mattison

RESOLVED, that pursuant to the agreement with the County Planning Board this application is exempt from County Planning Board Review therefore the Planning Board is waiving the requirement for a Public Hearing.

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Resolution # 47-2011
Approval of Special Use Permit 2011-05

Resolution by John Mattison
Seconded by Michelle Wright

RESOLVED, that based on the opinion of Code Enforcement Officer Dan O'Connor that it would not be cost effective to repair this residence that Site Plan Review Application 2011-05 be approved.

Old Business:

07/21/2011

Informal Review – John Rich – Chairman Tomkins explained to the Board Members that were not in attendance last week that this was an existing legal subdivision. This parcel does not have road frontage but has a right of way to the parcel. The question was: would this fall under the regulations that two adjacent parcels are considered one for subdivision purposes. Chairman Tomkins read Zoning Regulations Section 190-71. Subdivision Standards B. which state: *“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 public, town , county or state highways, 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.”* Chairman Tomkins further stated that Erika Sellar Ryan pointed out that this paragraph only applies to Section 71. So if someone were to come now to create a subdivision then the adjoining parcels would have to be looked at as one parcel.

Jeff Duxbury stated that since this is an existing parcel there is no issue.

Chairman Tomkins stated that Planning Board Clerk Kellie Blake will write a letter to Mr. Rich informing him that since this is a lot of record which was created legally as a buildable lot and can be sold as such.

Old Business:

07/21/2011

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.

Mr. Parker stated that he, John Mattison and Michelle Wright had met at 379 Anthony Road to conduct decibel readings. There were 5 motocross bikes riding the track. John Mattison stated that the water system for dust control was very important; at the demonstration tonight they couldn't see each other because of the dust. They took readings at several different locations. They will mark the locations on a map with the results of the meter.

Mr. Parker stated that on Lick Spring Road the reading was 61 decibels, on the corner of Larmon and Anthony it was 70 decibels, at the track the peak was 98 decibels right next to the bikes. Chairman Tomkins asked if the bikes ran over a period of time to calculate the peaks and down times. Michelle Wright stated that they did. Mr. Parker stated that the bikes are on and off the throttle depending on where they are on the track. Coming out of the corners is where the bikes peaked at 98 decibels. Chairman Tomkins stated that there are different standards for intermittent noise as opposed to a continuous noise. Mr. Parker showed the Board the decibel meter which was used during the meeting. The regular voices of the Board measured around 70 decibels. When someone knocked on the table it went up. Michelle Wright stated that they were over by the zoo and basically if they listened really hard they could hear it but you didn't notice unless you were looking for it. Decibel reading examples from the DEC report entitled Assessing and Mitigating Noise Impacts list the following levels:

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- Jet Takeoff at 2000 feet or a shout from .5 feet = 100 decibels
- NY Subway Station or Heavy Truck at 50 feet = 90 decibels
- Air Conditioning Unit at 20 feet = 60 decibels
- Light Auto Traffic at 50 feet = 50 decibels

John Mattison stated that he has a better feeling for the noise level now because of the readings, the sound is absorbed pretty well with the trees and brush. The fact that this application is for one year and then renewable is protecting the neighbors, he feels good about it.

This application was referred to the County Planning Board for review and their comments were that the Board should address: 1) Noise 2) Hours of Operation 3) Dust Control 4) Stormwater Management 5) Parking 6) Fuel Management.

Chairman Tomkins stated that the public hearing for this application was held on 04/21/2011 and the meeting was closed. Concerns during the meeting were noise, dust, riding on the road and property values decreasing. The Board has considered those concerns in the following discussion.

Discussion ensued regarding the following:

- **Operation** - limited to 20 hours per week consisting of no more than 3 days per week. Hours will be no earlier than 10:00 am and no later than sundown. If riding on a Sunday, hours will be no later than 5:00 pm. Need to know when the operation would begin (spring, summer) and when it would end.
- **Dust Control** – not optional, this has to be in place prior to business opening. Mr. Parker will submit dust control plans (i.e. Poly Tank to water track or sprinkler system, etc.).
- **Parking** – no parking on road, entrance/exit clearly marked by means of flags, ropes or signs.
- **Fencing** – some sort of fencing (snow fence was discussed) along parking lot so that onlookers can not gain access to the track.
- **Storm Water Management** – no new buildings being erected.
- **Fuel Management** – no fuel tanks being put in, each individual patron brings their own fuel cans.

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: *Dust and noise. Mitigated through hours of operation (see field report with Decibel meter readings) and per applicant a water system will be implemented.*

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: *Dust & Noise.*

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

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concerned with noise and dust see C1. One year term for application.

Resolution # 48-2011
Negative Declaration SUP 2011-01

Resolution by Jeff Duxbury
Seconded by John Mattison

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 # 2011-01 be granted a negative declaration.

Resolution # 49-2011
Conditional Approval of Special Use Permit 2011-01

Resolution by Jeff Duxbury
Seconded by Michelle Wright

Discussion: John Mattison asked about exhaust systems that were too loud.

Michael Parker stated that he will inspect each unit for the appropriate exhaust and if they are too loud he will ask them to leave the track. Mr. Parker further stated that the bikes are getting quieter every year because of new regulations.

RESOLVED, that contingent on the submission of the proposed schedule of operation as discussed above; what kind of dust control watering system will be used; the detail of kind of fence and where it will be placed to separate the track from other activities; a statement from Mr. Parker stating that he will inspect bikes for appropriate exhaust systems prior to patrons using the track that Special Use Permit 2011-01 be approved for a one year term.

John Mattison stated that he had mentioned to Mr. Parker that the use of large square hay bales could be placed around the turns which would absorb a lot of the sound. Kyle Vandewater stated that Mr. Parker had mentioned the hedge row and that they will not be removing any of that.

Carmody Ford:

Chairman Tomkins explained that J.C. Carmody had requested a letter from the Planning Board and the Code Enforcement Officer stating that to date his addition located at 1111 State Route 29 is in conformance with the Zoning Ordinance. Code Enforcement Officer Dan O'Connor stated that what is complete so far is in compliance. There still needs to be a vertical break in the façade and the lighting has not been installed yet. Planning Board Attorney Izzo stated that the letter should give the application number and date of approval. The Board instructed Planning Board Clerk Kellie Blake to send a letter to Mr. Carmody.

Old Business:

07/21/2011

Suzanne Shumway – Livery.

Chairman Tomkins stated that he was very unhappy with Ms. Shumway. He asked what meeting she attended. Clerk Kellie Blake stated that she came to a meeting on May 12, 2011. Code Enforcement Officer Dan O'Connor stated that he had been to Spraguetown Road every day this week and has yet to serve Ms. Shumway with the Notice of Violation.

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Chairman Tomkins stated that he is concerned that the addition that is going up may in fact be for residential use but it could also be used for the business.

John Mattison stated that Ms. Shumway stated that this was for her personal use only.

Chairman Tomkins asked if they should inform the County Code Enforcement that they are in violation of the Zoning Ordinance and ask them to look into the building permit. If they intend to use that for the business they may be building something that complies with residential code but not the code for this type of venture.

It makes him nervous that he has seen at least a dozen people standing near the building. There is construction going on and if this was his (OMH) project and they saw patients that were not separated from construction the job would be shut down immediately.

Code Enforcement Officer Dan O'Connor stated that Ms. Shumway stated that the building permit was for residential purposes only and we can't assume that it isn't.

Jeff Duxbury stated that you need to take people at their word until they are disproved. She said that it was residential and it is in the minutes.

More discussion ensued with speculation about what she actually does. The Board asked Code Enforcement Officer Dan O'Connor to issue a Notice of Violation and ask Ms. Shumway to come to the next Planning Board Meeting.

Chairman Tomkins asked Planning Board Attorney Izzo his opinion regarding contacting the County Code Enforcement.

Tony Izzo asked if there had been an inspection of the property done. Dan O'Connor stated that the County does the inspection. Tony stated that the County had the right to inspect the construction site to ensure that it was in compliance with the permit.

Kyle Vandewater stated that it's worth a call to Dave Armando at County Code Enforcement stating our concerns.

Resolution # 50-2011
Approval of Minutes

Resolution by Michelle Wright

Seconded by John Mattison

RESOLVED, that the minutes of the June 9, 2011 and June 16, 2011 Planning Board Meetings be approved as submitted.

Chazen Zoning Ordinance Update Proposal:

Chairman Tomkins stated that he has concerns in making the sign ordinance more complex. There are a couple of issues regarding the sign ordinance but it does not need to be completely redone. Landscaping issues, Stu Mesinger has some good ideas regarding landscaping. Discussion ensued regarding who would be on the committee to update the Zoning Ordinance. Chairman Tomkins stated that five - seven people would be a good number a mixture from the Planning Board and Zoning Board of Appeals. The proposal is for six meetings.

A motion was made by Michelle Wright, Seconded by John Mattison that the meeting be adjourned at 8:40 pm.

Respectfully Submitted,

Kellie A. Blake
Planning Board Clerk