

**Town of Greenwich
Joint Meeting Minutes
11/24/2008**

Call to Order: Supervisor Wilbur, Planning Board Chairman Tomkins and Zoning Board Chairman John Fardell called the meeting to order at 7:00 pm.

Town Board Members Present: Donald Wilbur, Robert Jeffords, Steve Patrick, George Perkins and Eric Whitehouse.

Planning Board Members Present: William Tomkins, John Mattison, Dan Spigner, Jeff Duxbury, Kyle Vandewater and Carl Thygesen.

Zoning Board of Appeals Members Present: John Fardell, Ralph Vecchio, Roland Mann and Dawn Sharts.

Also Present: Town Clerk Elaine Kelly, Planning Board Clerk Kellie Blake, Zoning Board Clerk Amanda Willetts and Code Enforcement Officer Dan O'Connor.

Members of the public present: Tamara VanRyn.

Supervisor Wilbur stated that when the Zoning Ordinance was adopted the Boards had decided that a year later a joint meeting would be conducted to see if there were any issues that were not addressed when Zoning was adopted. Supervisor Wilbur further stated that the Town Board would like to hear comments from the other Boards as to issues, changes, definition changes etc. to the Zoning Ordinance for consideration by the Town Board for amendments.

1. Small Activities:

PB Chairman Tomkins stated that one of the small activities that has come before the Planning Board that had no impact on land, was the reestablishing of the ice cream place on Route 4 which shouldn't have been as complicated as it was. The issue is that the Planning Board can waive public hearings for Site Plan Review and Special Use Permits but if these applications have to be referred to the County Planning Board for review it can take an extra month before the PB Board could approve the application. PB Chairman Tomkins went to a County Planning Board Meeting and talked to the Board. The County Planning Board is trying to come up with an expanded list of applications that do not require referral to the County Planning Board. Chairman Tomkins further stated that what bothers him is that a small application should be easy, and it wasn't the Board's intention to make the applicants "jump through hoops". PB Member Vandewater stated that what happens with a lot of these smaller applications is the County Planning Board sends back their findings which state that the application "is of local concern" and they have no issues. Chairman Tomkins stated that if we could figure out what "the local concern" issues are it would speed up the process by not having to refer them to the County Planning Board for review. ZBA Chairman Fardell stated that the Ice Cream shop was one of the first variance applications that came before them. The building existed and did it really need a variance? PB Chairman Tomkins further stated that there was another person who came in who wanted to have an auto repair shop in his garage and did not come back for review. The process was probably more steps than he thought it was going to be.

2. Composting – Animal Carcasses:

PB Chairman Tomkins stated that on the other hand working with Mr. Burch with the composting application, the neighbors are happy that we have a way to make sure that it will be

done correctly. ZBA Member Sharts asked if he had been given a permit. PB Chairman Tomkins stated that a public hearing was set for December. Mr. Burch has explained the composting process, which is recommended by Cornell Cooperative Extension, and submitted a description of the land area he is proposing to use. If he does the process correctly it should be ok. PB Member Mattison stated that he thinks there will still be issues with the neighbors. ZBA Member Sharts stated that the process would have to be done correctly. PB Chairman Tomkins stated that the Planning Board is able to approve Special Use Permits on a renewable basis with timeframes and they are discussing what timeframe would be best. ZBA Member Sharts asked who would oversee and make sure he was composting correctly. PB Chairman Tomkins stated that it would be Code Enforcement Officer Dan O'Connor's responsibility and that Dan had been doing a good job. ZBA Member Sharts asked if Mr. Burch was under a stop order because she was under the impression that he was still bringing in animals. PB Chairman Tomkins stated that the PB Site Committee had gone to view the site last Tuesday. PB Member Duxbury stated that they looked at the site where he wanted to have the composting done, but they didn't see any new areas. CEO Dan O'Connor stated that he was there on Friday and he did not see any new sites. Mr. Burch is bringing in wood chips and manure in anticipation of being approved.

Supervisor Wilbur asked for the Board's suggestion as to how this is remedied, is there something that needs changing in the Ordinance regarding the burying or composting of dead animals? PB Chairman Tomkins stated that so far this process has worked and Special Use Permits are approved on a temporary, permanent or renewable basis. We need to talk to our Attorney regarding how often the Board can make it renewable. This particular application should not be approved on a yearly basis, because it would be hard to make sure it was being done correctly. Councilman Patrick stated that he thinks Don is saying that it fell under Special Use Permit because there was no other place it fit. PB Chairman Tomkins stated that was looked at incorrectly. A Special Use Permit is one of a category of things. When looking at this application, the rendering plant definition was close enough to the proposed composting use. The Ag & Markets definition of a rendering plant included the disposal of animals. ZBA Chairman Farndell stated that it didn't include the volume that this application would be doing; it defined it as the occasional disposal of animals. PB Chairman Tomkins stated that the Ag & Market law he read regarding rendering plants seemed to fit this proposed use. ZBA Member Vecchio suggested that the Zoning Ordinance's definition of rendering plant should be looked at. Rendering is defined as: animals processed into food and by products. To make things clearer for people who are involved in this; he would suggest that the definition be made clearer, as well as the definition of solid waste. Supervisor Wilbur stated that he had a problem fitting this application into one particular use. Do we need to be more specific is the question? PB Chairman Tomkins stated that he was more concerned about was that Mr. Burch's Attorney took the first phrase of the definition of Agricultural use, "any management of any land for agriculture; raising cows, horses, pig..." as being free standing so maybe the definition was too broad there. ZBA Member Vecchio stated that in Section 190:9 it states that if a use was not listed it is not a permitted use.

ZBA Chairman Farndell asked if these issues would be resolved tonight? Supervisor Wilbur stated that no, the Town Board is looking for ideas and a list of things to consider to amend the ordinance. The Planning Board and Zoning Board are the ones that work with this ordinance. ZBA Member Sharts stated that a few more definitions regarding this composting are needed, this is not a rendering plant. What recourse does the Town have when someone is breaking the law? If a person doesn't get a permit but continues the business anyway?

Supervisor Wilbur stated that there are processes to follow:

1. An appearance ticket
2. Fines
3. Possible jail sentence

Councilman Jeffords asked if a definition for composting was needed to make it black and white? Supervisor Wilbur stated that a farmer has the right to compost his own animals that are deceased on his own property. This is a different situation, this property is not owned by the applicant and does the applicant have the same rights? I don't know the answer to that. ZBA Chairman Farndell stated that if an applicant meets all the requirements that the Planning Board sets forth it has to be allowed. More discussion ensued regarding this process and the need for this kind of business. Tamara VanRyn stated that this could be solved with some changes to the definitions. Tamara VanRyn further stated that solid waste processing is about using the landfill or transfer station, one way to deal with this is to put animal carcass composting under solid waste by broadening that definition to include composting. You could also change the definition of slaughterhouse to include where animal waste is disposed of. Supervisor Wilbur stated that what the Board would like is something in writing from the Planning and Zoning Boards as to what they would like the Town to consider in changes to the Zoning Ordinance.

3. Junkyards:

PB Chairman Tomkins stated that the Zoning Ordinance dictates that junkyards require a Special Use Permit. There were three junkyards in the past with licenses: Stu Maguire, Sheila Byrnes and George Polchowski. To date none of the three have applied for a Special Use Permit. Stu Maguire came before the ZBA for a variance on the fence and was given a process and given a time frame to complete it but has not applied for a SUP. ZBA Chairman Farndell stated that all the vehicles outside of the fence are being brought inside the fence or being disposed of. PB Chairman Tomkins asked if the other two junkyards were still active? CEO Dan O'Connor stated that they were no longer active. PB Chairman Tomkins asked if they had removed the junk cars? Dan O'Connor stated that Sheila Byrnes has started cleaning up the yard. With George Polchowski there may be some issues. Town Clerk Elaine Kelly asked Dan to supply the Town Board with a report stating that they were no longer operating. Councilman Jeffords asked if Sheila still had any junk cars behind the fence? Dan stated that last time he was there she had most of it cleaned up but he could go look again. PB Chairman Tomkins stated that whatever George Polchowki had visible from the road is not there anymore. PB Chairman Tomkins asked how those three became defined as junkyards and not the other places in town with junk cars? Supervisor Wilbur stated that they had gotten licenses. F & D Auto is classified as a repair shop and he can have vehicles there that are saleable or repairable. Sometimes when you go by some of the vehicles don't fit that definition. PB Chairman Tomkins stated that a question he has is there are many vehicles there that don't look like they can be repaired. ZBA Chairman Farndell stated that Stu Maguire had said that all his vehicles had titles and could run with a little work, the ZBA made him follow through. PB Chairman Tomkins stated that if he were Stu he would be a little upset that he is being made to comply with the Zoning Ordinance and others were not. Supervisor Wilbur stated that Dan had stopped at F & D Auto over the years and the cars would be cleaned up for a time. There were other examples of junk cars in the town brought up. Supervisor Wilbur stated that the NYS Law used to read that you couldn't have any more than two unlicensed vehicles. ZBA Chairman Farndell read the junkyard description from the Zoning Ordinance which states: "Building structures or premises where junk, waste, or discarded or salvage materials are bought or sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards, but not including premises for the purchase and/or storage of furniture and household equipment in operable condition or used cars in operable condition." It doesn't limit you to two vehicles. Supervisor Wilbur stated that he was referring to the State Law. PB Member Thygesen stated that he agreed with Bill that if there is a law it should be followed by everyone. Supervisor Wilbur stated that State Laws are enforceable by the State Police but they probably

wouldn't stop in to tell someone they could only have two vehicles in their yard. Supervisor Wilbur asked what it was that Bill would like to see done. PB Chairman Tomkins stated that he would like to make sure the Boards were "all on the same page" and enforce it. Dan O'Connor stated that when he gets a complaint about junk cars he goes to the property owner and most of the time they clean it up. People do work with us. If needed he will get the County involved and the property owner usually complies. Dan further stated that he would go visit Stu Maguire, Sheila Byrnes and George Polchowski and put his findings in a report to the Town Board. Dan was asked about F & D Auto. Dan stated that they were not a junkyard, he visits him and he cleans it up for awhile. Some of the cars you see are not his, they belong to the neighbor. Dan stated that he would go see F & D again, as well as the gentleman next door. PB Chairman Tomkins stated that rather than have him clean it up, have him get a permit. If he was asked to get a permit, in the permit process, he could clean it up and fencing would be required. More discussion ensued regarding the other junk cars in the town and is a junkyard a permitted use. In F & D Auto's instance, they are in the Hamlet/Mixed Use Zone which does not allow junkyards.

Councilman Perkins stated that we are classifying him as a junkyard but he is an auto repair. There is a difference between a car waiting to be repaired and a car just sitting there. Dan can't go to him and say, now you are a junkyard you have to comply, he can tell him he has cars that are not saleable and need to be cleaned up. PB Chairman Tomkins stated that might be the answer, if he is going to continue to be an auto repair not a junkyard, he needs to clean up the junk. More discussion ensued regarding this issue and the outcome was that Dan O'Connor would visit the three establishments that had previously had junkyard permits to determine if they were:

- 1) Still in business and applying for a SUP.
- 2) No longer in business and disposing of junk vehicles.
- 3) If Dan is out on the roads and sees an obvious violation of the junk car law he should stop and inform the resident of the law.

4) Complaints:

ZBA Member Sharts stated that she feels it is unfair that neighbors have to "turn in" another neighbor if they are breaking the law. There should be another way. ZBA Member Vecchio stated that there are two ways to enforce the laws, one is to have the Code Enforcement Officer travel the town checking for compliance, which is impractical. Supervisor Wilbur stated that there is not money in the budget to hire a full time Code Enforcement Officer. Over the years the Code Enforcer has acted on complaints. ZBA Member Sharts asked if these complaints were anonymous? Supervisor Wilbur stated that sometimes they were and other times they were not. When someone calls and complains, it is referred to Dan. Dan O'Connor stated that he never discloses a resident who does not want to be known. Dan stated that the complaint is in writing or the caller tells Dan whom the complaint is against. There had been an issue in the past that had not included any names of resident's just symbols on a map and this was not acted on.

5) Ridgelines:

ZBA Member Sharts stated that she had a question regarding ridgelines because there was a building put up on Spraguetown Road and some people felt it was on the ridgeline and some didn't. It was a matter of interpretation. Supervisor Wilbur read the definition of ridgeline which states "the high point of a hill or mountain or of a chain of hills or mountains." ZBA Member Sharts' question with this building's location is that you can see it from three different angles, it is on a high point of a hill, not the highest point of a hill. The definition is open to interpretation. She further stated that in Section 190-41 H (1) it states: "structures shall generally be sited away from ridgelines. Wherever possible, structures shall be sited at lower elevations and close to

existing roads and vegetation.” This structure is not. ZBA Member Vecchio stated that the problem here is procedural. The Code Enforcement Officer determined it was not on a ridgeline. The only recourse is for someone to challenge his determination. ZBA Chairman Farndell stated that there are no specifications to make the determination if this was on a ridgeline or not. He did some research regarding this and has some information for the various Boards. PB Chairman Tomkins stated that individual houses do not come to the Planning Board, they just get a building permit. Some of the design considerations in the Zoning Ordinance come into play during the subdivision process. The Planning Board should look at those issues then. Tamara VanRyn stated that she understands that the design standards, where the ridgeline fit in, are for Site Plan Review and Special Use Permits. An individual home or agricultural building would not require either permit. Dan O’Connor stated that what is needed in his opinion is something in the Zoning Ordinance that specifically directs him to refer this back to a Board.

Councilman Perkins asked what would happen if Dan denied a building permit, could the person go to the ZBA for a variance? If so, that is the Board it should be referred to. Is the wording in our Ordinance regarding ridgelines enough for Dan or the Boards to make a determination? ZBA Chairman Farndell stated the way it is no, because it doesn’t tell us how to make the determination. PB Chairman Tomkins stated that most of those sections are dealing with SUP and Site Plan but that particular paragraph does not refer back to the permits. Other sections begin with Site Plan or SUP can not be approved unless... 190-40 is just general standards. This needs to be clarified.

ZBA Chairman Farndell thought that maybe smaller “sub-committees” would be a good idea to work these things out. PB Chairman Tomkins stated that rather than sub-committees it might be easier to have the ZBA work on ridgeline and the PB work on the definitions of solid waste and slaughterhouse. Then each Board will look at it and then pass it along to the Town Board.

6) Signs: Article VIII Section 190-61.

ZBA Member Vecchio stated that in E) It shall be unlawful to erect or maintain the following types of signs at any location in the Town unless otherwise noted herein:

- (1) Any sign which is not expressly permitted under the provisions of this chapter.
- (2) Any flashing sign.
- (3) Any animated sign.
- (4) Neon lights, for an exterior sign and/or a building decoration, shall be prohibited.

This leads him to believe that there is a section which states which signs are expressly permitted but he can’t find it in the Zoning Ordinance. He further stated that somewhere in the drafting there were some parts left out. Town Clerk Elaine Kelly stated that she remembers that during the drafting of the Zoning Ordinance there was a long list of permitted signs and the Board thought it was easier to note the signs that were not allowed. PB Chairman Tomkins stated that could be. Tamara VanRyn asked if anyone had the draft Zoning language regarding signs? PB Clerk Kellie Blake stated that she had a copy and would give a copy to Ralph. PB Chairman Tomkins stated that the draft language was much too long. CEO Dan O’Connor asked about temporary signs, a good example is the Glens Falls Hospital site. Do the same rules apply to temporary signs? PB Member Vandewater stated that they could be up until the Certificate of Occupancy was issued.

ZBA Member Vecchio will work on the sign section.

7) Outdoor Wood Boilers:

ZBA Chairman Farndell wondered if some language regarding outdoor wood boilers could be added to the Ordinance. They wouldn’t fit in some districts, like the hamlet or residential districts. They should be allowed in certain districts. Supervisor Wilbur stated that people already have them in the hamlet of Bald Mountain, the Town Highway garage has one.

Councilman Patrick stated that they make smokeless boilers now with secondary burners in them. Supervisor Wilbur stated that he knows a lot of Villages have restrictions. ZBA Chairman Farndell has gotten some information on regulations used by other Towns and the County. He would recommend that this is included in the Zoning Ordinance. ZBA Member Sharts asked where they would be allowed? ZBA Chairman Farndell stated that in the Rural Agriculture District and Industrial District. Existing boilers would be grandfathered but new ones would be regulated. Councilman Patrick asked if they were the smokeless kind would they be allowed? ZBA Chairman Farndell stated that he had not seen that kind in any of his research. Supervisor Wilbur stated that we should be careful with this issue right now.

8) Continue Business while Under Hearing of ZBA: 190-92 D. Abeyance: Compliance with a notice of violation shall not be required while a hearing is pending. ZBA Member Vecchio stated that we might want to take this section out of the ordinance. PB Chairman Tomkins stated that this made him uncomfortable. PB Chairman Tomkins stated that he would ask Stu Mesinger where this language cam from when the training session is held on December 15th.

Supervisor Wilbur asked what the next step would be? Will this be something presented to the Town Board in January? PB Chairman Tomkins stated that by January the ZBA and PB should report to the Town Board as to what progress has been made.

Supervisor Wilbur asked if the Boards would like to continue to meet yearly. PB Chairman Tomkins stated that this was a productive meeting and he would like to continue to meet to discuss the Zoning Ordinance as well as other issues. The Comprehensive Plan had a section on voluntary issues, things like information to give to people who come in to subdivide. (i.e. how to site a house on the property etc.) There are things with the non- for- profit organizations that may be discussed. PB Chairman Tomkins stated that for example the railroad has not been used in a while and would be good for other uses. Tamara VanRyn stated that part of the Zoning Discussion was an agricultural protection plan for the Town, carrying forward with the Comprehensive Plan. Supervisor Wilbur stated that we could move into those discussions.

Kyle Vandewater stated that at the last Planning Board meeting there was discussion regarding the Plan in Cambridge. He stated that the Town of Greenwich had done the process right and was happy with the way it progressed.

Supervisor Wilbur asked if there were any other issues and thanked everyone for coming.

Motion by Councilman Whitehouse

Seconded by Councilman Jeffords to adjourn the meeting at 9:00 pm.