

**Town of New Haven Selectboard Public Hearing
And Regular Scheduled Meeting
6:30 pm
Town Offices
Tuesday, May 5, 2009**

Present: Keith Hall, Roger Boise, Pam Marsh, Pat Paquette, Kathleen Ready and Pam Kingman

Visitors: Kathleen Barrett, Marcia Dupoise, Steve Dupoise, Rodney Case, Andy Dykstra, Steve Davis, John Madden, Pat Colander, Dave Colander, Jonathan Chapin, Dennis Woos, Marianna McShane, Rita Booska, Milo Schaefer, Candace Davidson, Susie Leonard, Linda Horn, Peter Fournier, Peter Norris, Dolores Norris, Warren Whitcomb, Barb Torian, Allen Karnatz, Cris Messerle, Jill DeVoe and Jim Walsh

Chairman, Keith Hall called the meeting to order at 6:35 pm. Tonight's meeting is for public comment only. He explained that the Planning Commission had held their public hearing previously on January 15, 2009. A full report of that hearing is forwarded to the Selectboard, and the Selectboard can choose whether or not to hold their public hearing; but must do so not more than 30 days after and no later than 120 days following the Planning Commission hearing.

As warned this meeting is a public hearing for taking comment on a petition filed by Steve and Marcia Dupoise to amend the New Haven Town Plan, and the New Haven Zoning Regulations to create a new commercial zoning district on Ethan Allen Highway.

AND

To take public comment on amendment changes to the Zoning Regulations recommended by the Planning Commission.

- 1. Petition: Shall the Town of New Haven amend the official Zoning Map and therefore the Town of New Haven Zoning By-Laws to change the existing Rural Agriculture (RA 10) district which runs south of Beldon Falls Road to existing Highway Commercial (HC) District and which also runs west of Ethan Allen Highway to lots owned by Marlene Forte (lot 785) and Craig and Beth Bemis (lot 784) identifying the same as HC District? The total acreage which is subject to the amendment (lot 787) is approximately 30 acres, ten of which has already been rezoned HC. The lands and premises described are owned by Marcia and Stephen Dupoise.**

Open for Public Comment:

Susie Leonard – Not in favor of the petition, feels the Dupoise's are being selfish in this second request to bring this before the voters, she feels it will only benefit the petitioners. She asks the Selectboard to table the request. See attached letter.

Dave Colander – Agrees with Susie Leonard. It will bring down the value of their property. See attached letter.

Milo Schaefer – Back in 2000 he agreed with the rezoning for the Dupoise's storage facility. Now he feels differently as it is unclear as to what project will go there. When rezoning land it needs to be on a level playing field, to spot zone is illegal. He would like to see some commercial development in certain areas and kept in those areas to prevent sprawl. He added commercial property does not lower taxes, and in this instance doesn't benefit anyone. He would like to see the Selectboard stand by the Town Plan and preserve scenic byway and prevent sprawl. He too opposes this petition.

Jonathan Chapin – The Town voted on this petition last year and it was defeated. The Dupoise's are asking this to be voted on at Town Meeting 2010. The sentiment on this issue hasn't changed. Only one landowner stands to gain from the rezoning. This circumvents the process by the Planning Commission. The Planning Commission doesn't want to rezone in favor of the petitioner. He feels this will open the door to other landowners along Route 7. There are statutes in place that should stand for something. He asked what the purpose of the meeting was for, and can the Board say no to the petition?

Keith Hall replied that the hearing was for public input, and they can't approve of anything without hearing from the voters. The Board can say no to the petition.

Peter Norris, Sr. – Asked for permission to speak as he is not a New Haven resident. Permission granted. Mr. Norris said the Legislature has maintained the ability to petition the voting public, as this petitioner has done. He supports highway commercial and thinks New Haven should make the move to bring the corridor from Middlebury line through New Haven along Route 7. From Rutland to Burlington there are small stores that dot Rte 7; in these stores there are a limited number of folks who work in them because the clay soil doesn't allow for good septic. Right now Vergennes and Middlebury are seeking business. Mr. Norris is an Act 250 Commissioner, he explained when you have prime agricultural land, Act 250 does not allow you to use 25 – 30% of the land. Even though you have 400 acres, you can only use about 200 of it. He added the septic is tough too, because you can only utilize 25 – 30% for business. To go thru Act 250 depends on your soil. The Planning Commission should not spot zone as New Haven only has 1/3 of usable land.

Kathy Barrett – It is commendable to have New Haven stay as idyllic town. There number of enterprises is decreasing. It matters where the industries are placed, it should not be on the back roads. The appropriate place is on Rte 7. She supports a diverse town, wondered how many folks support local farmers and asked when the land in question was last farmed? The last thing she remembers being there was the golf driving range.

Warren Whitcomb – Citizens approach the Selectboard with a valid request, the Board should grant it. Tax base should go up. He knows this land is not agriculturally friendly so it would be appropriate for commercial use.

Peter Fournier – Asked what the land is zoned now, and added that the petitioner knew what it was zoned at the time of purchase. He wondered how the land perked and thought it would be difficult to access Route 7 from this parcel.

Keith Hall – The land is currently RA10 – Rural Agricultural, 10 acres. As far as a perk test, that should be discussed with the Development Review Board.

Steve Dupoise – When they purchased the 30 acres 10 years ago it was zoned RA10. They petitioned the town to change the southern 10 acres to Highway Commercial. They are now asking to have the remaining 20 acres zoned the same.

Dennis Woos – Heard a lot of different opinions and a lot of good questions. We are looking at one parcel of land that would make a favorable change for one owner. Does not feel it is appropriate to zone piece by piece. It is not how the town should do business.

Pat Colander – She is opposed to the change. When the people bought the Cyclewise property in 2006 they paid \$231,000 – it is assessed lower now. When the State Police building went in the property sold for \$300,000 the person selling the property made a lot of money as this property is not taxed now. This same person owns 9 HC properties, they are the ones benefiting, not the town.

Linda Horn - Against the proposal, she stands behind the Town Plan and thinks the town should think about long term.

Andy Dykstra – There is no real future in farming, many farmers are going out of business. The town needs the tax revenue; part of this land is already commercial. He feels it is the perfect spot on Route 7. He does not want to see large trucks on the back roads getting to businesses. There are no industries in New Haven, and we need help with paying taxes. He supports the petition.

Milo Schaefer – Concerning the tax base; there is a VLCT study that shows the concept of increased development will bring in more taxes. On the contrary, land

values go down and costs go up. He said the Planning Commission said they want to discourage strip development along the highways, and that they want to keep scenic routes. He said if the Dupoises were to put in a senior health care facility or the like it would be a good fit.

Marianna Mcshane – Against the petition.

Jonathan Chapin – The Dupoise's have the right to petition. But feels the vote is about who can get out the vote, instead of a thoughtful process. This opens up the door for others.

John Madden – He had concerns about the agricultural use in town going down. Was pleased when Four Hills Farm purchased the property on the north side of River Rd. South Street too has several horse farms on it, agricultural use is very much alive in New Haven. He would like Milo Schaefer to give the Board the VLCT website to get more information on the study he was talking about.

Peter Norris, Sr. – Discussed the tax revenue from when Chris Granstrom used to have a pumpkin stand where Cyclewise is now. For the last 10 -15 years the town has had tax revenue from this property. The State Police property is under a restricted covenant and they are not required to pay property taxes. He was under the impression that the state paid 50% of taxes on good faith. He doesn't want to see commercial property scattered, but it does bring in local jobs. This is the second petition to the Planning Commission, feels they ought to step it up a notch and make the appropriate changes in commercial areas.

Steve Dupoise – There will be no extra cost to the Town because it will be voted on at Town Meeting in March 2010. He has not spoken with the last interested buyer in about a year. With the housing crunch, they may no longer be interested. The Livingston's tried to farm it but it was much too wet; this is not prime agricultural land. They currently have a commercial property next to their house on Route 7, they haven't seen any changes. He does not have plans for a Walmart, he will not do anything detrimental to the town.

Dave Colander – Comparing New Haven to Cornwall where there is no industrial development, and therefore they are taxed differently. Highway Commercial decreases the value of residential land.

Mike Fournier – Asked how many times can they petition?

Keith Hall – As many times as they want.

Public Hearing for the Petition Closed

2. Proposed Amendment change to Article X, Section 1005-A.

All non-residential conditional uses shall have a minimum 100-foot setback from residential districts. However the Development Review Board, at its sole discretion, may reduce this 100-foot setback requirement in accordance with the standards for permitted (non-conditional) uses, for the storage of items associated with the conditional uses provided it finds that the storage area is adequately screened from public view.

Al Karnatz – This is not a change to the Town Plan, just to the Zoning Regulations.

Dave Colander – Feels that this is spot zoning along Route 7, and that there are a large number of side effects. His property borders Route 7 on Dog Team Road and feels it affects all property where there is commercial land.

Keith Hall – This Amendment is for Conditional Use. Normally it in a commercial zone you would need 30 ft. to separate the buildings. Conditional Use to change, it is not listed in the regulation. 30 -50 ft. in the zone, the condition added to lot for some reason has to be 200ft. setback; now they are asking to go to 100ft.

Allen Karnatz – Permitted use is 30ft. and Commercial Use is 200ft. if next to Commercial Zone.

Discussion about how this setback affected Middlebury Fence, Co. They had stored piles of lumber close to the 200' setback. The Zoning Administrator could not allow the pile of commercial material to remain as storage. This would only be in the Highway Commercial District, there is no suggestion to bring it into the Industrial Zone. Mr. Karnatz feels we should let the Development Review Board use their discretion to make change; many people felt the 200' setback was too restrictive. It is now before the Selectboard for their ruling.

Cris Messerle – Indicated Industrial Use has the 200' setback is implemented in the zoning regulations. He added sometimes the zoning overlaps.

John Madden – He quoted from the 1005-A, “minimum 200’ setback from residential setbacks.” He noted some that have existed and still do: gasoline stations/ veterinary clinic / vehicle sales / mobile home sales and freight trucking. The purpose of the 200’ setback is to allow for a buffer. If that is removed you remove the buffer zone and it will decrease property values. He feels this is changing the bylaws at the request of two people, and the request isn’t coming from the Planning Commission, it is coming from the Dunbar’s and Dupoise’s. Both of these properties have room on them to do something else. He feels this will give the DRB the authority to spot zone.

Marianna Mcshane – Her property borders 10 acres of commercial land. In 1992 this land was being used as a trash / transfer station before the permission was granted to them to do so. Even now, the new owners of the property do not respect the boundary lines. She is concerned that when given a conditional use they don't always abide by it.

Pat Colander – Take for instance the Mobile station on Route 7, they have been issued a conditional use permit. The Colanders have taken them to Environmental Court because they are not abiding by it. The Colanders are awakened several times in the night by the back up beepers on the trucks. They feel the trucks are kept much too close to the property line now, they too will be allowed to get closer because of the 100' setback. Their property value has gone right down. She said the Zoning Administrator approached them, they are in and out of compliance; to her it seems New Haven does spot zoning. She feels the setback should be contingent on how the neighbors feel about the setback.

Jonathan Chapin - He agrees with Pat Colander that it should be contingent on how the setback affects the neighbors. It seems to tip the balance in favor of the business owners. He is not in favor of the 100' setback, it should be considered case by case. He is also concerned how open ended it leaves things.

John Madden – The DRB being able to change at their sole discretion is reduced to what they think is right. Their decision affects everyone in town. He feels the Town should vote on this.

Dennis Woos – He wondered who came up with the 200' setback, and then thought maybe 100' would be better. Why is it 100'? He would like some clarification on this decision and feels someone needs to do more work to define why it is 100'.

Peter Norris, Sr. – The DRB mails out notices to the adjacent land owners when they are holding meetings / hearings. The DRB may be granting uses that violate the neighbor's rights. Folks need to follow due process.

Allen Karnatz – People will still need to apply to permitted use.

Discussion on the RV Center on Route 7; and how close the RVs are parked to the road.

Public Comment closed on item #2.

3. Proposed addition of Section 353 to Article III:

All currently enacted New Haven Subdivision regulations shall be integrated into the Zoning Regulations and shall be equally applicable for all site plan requirements.

All comments on this proposed addition were in favor of integrating them into the zoning regulations.

Adjourn from Public Hearing at 8:03 pm

Keith Hall opened the regular scheduled Selectboard Meeting at 8:04 pm

AGENDA RESULTS:**VISITORS BUSINESS:****TOWN OFFICE:**

1. Jill DeVoe – Handed in her letter of resignation as Town Auditor. She has been approached by newly appointed Town Clerk, Pam Kingman to fill the position of Assistant Town Clerk. Pam Marsh made a motion to accept Jill DeVoe's letter of resignation. Seconded by Kathleen Ready. 5 yes / 0 no
There will need to be a 10 day warning posted for the vacancy of Town Auditor.

TREASURER'S REPORT:

1. Payroll – Pam Marsh made a motion to approve the payroll. Seconded by Pat Paquette. 5 yes / 0 no
2. Pay Orders – Pam Marsh made a motion to approve the pay orders. Seconded by Pat Paquette. 5 yes / 0 no
3. Barb Torian – The Town got an unexpected windfall from the State for \$50,000. \$20,000 of it has come from Beeman Elementary and \$30,000 from Mt. Abe. The State does a guesstimate on what each town is responsible for.

NEW BUSINESS:

1. Open bids for the Roadside Mowing: 1) David Miner - \$9,720 total and 2) Ernest Codding - \$9,800 total. Roger Boise made a motion to go with David Miner for a total of \$9,720 for the season. Seconded by Pat Paquette. 5 yes / 0 no

2. Wayne Marcelle – Asking permission to purchase a wire guard to protect the lighted exit sign above the doors to the entrance to Town Hall. Total cost would be \$100 from Bolduc Electric. Pat Paquette approved of the purchase of the wire guard up to \$100. Seconded by Roger Boise. 5 yes / 0 no

REGULAR BUSINESS:

MISC. CORRESPONDENCE:

1. Vermont Land Trust RE: Acquisition of Development Rights – Palmer J & C Farm
2. Information about Halpin Covered Bridge Road & Cobble Rd.
3. Letter from Ann Duclos – Collier – RE: gym was a mess, a lot of garbage left from previous event.
4. State of Vermont – State-Owned Property Values for FY10 PILOT Payments

OTHER BUSINESS:

1. Roger Boise – Deanna Boise approached him about placing a memory tree on the front lawn of the new Town Office / Library. Deanna Boise talked to Green Haven Nursery (they are doing the landscaping) about the tree. Peter Norris, Jr. said he doubted there was any room for more trees. Deanna Boise asked if the tree could be placed on the Village Green instead. Pat Paquette made a motion to place the memory tree on the Village Green. Seconded by Kathleen Ready. 5 yes / 0 no
2. Roger Boise – Betty Bell has asked to have Clegg's Memorial come down and fix some headstones in the Riverside and West Cemeteries.
3. Roger Boise – Update on what the road crew has been up to: They have cleaned up the roadsides on Sumner Road and cleaned out a whole bunch of brush out of West Cemetery. He said they have done a great job.
4. Pearson Road update – The road is under construction now and will be closed for up to a month. Delphia Excavating who is working on the road told Mr. Boise now that the road had to be blasted to remove the rock ledge, the road base is very unstable. Anybody who is seen walking on the road can be fined up to \$500. Pam Kingman will call the Addison Independent and ask them to write an article about the road closure.
5. Roger Boise – The front of the garage has some rotten boards that need replacing. He would like to have the boards replaced. Keith Hall made a motion to approve of replacing the rotten boards. Seconded by Kathleen Ready. 5 yes / 0 no
6. Pam Marsh made a motion to incorporate the subdivision regulations into the zoning regulations. Seconded by Kathleen Ready. 5 yes / 0 no

OLD BUSINESS:

Adjourn: 8:50 pm
Respectfully Submitted:
Pam Kingman
Approved:

Keith Hall, Chair

Roger Boise

Pam Marsh

Pat Paquette

Kathleen Ready

