

Minutes of the Work Session of the Town Board of the Town of Durham held September 2, 2003, at the Town Building in Oak Hill, N.Y.

Present: Robert Young – Supervisor
 William A. Carr, Jr. – Councilman
 Robert Elpel - Councilman
 Gary Hulbert - Councilman
 Linda Sutton – Councilwoman

Recording Secretary: Chris Kohrs – Deputy Town Clerk
 Others Present: Wesley Moore - Highway Superintendent
 Tal Rappleyea – Attorney for the Town

The Supervisor called the meeting to order at 7:32 P.M. with the Pledge to the Flag. Thirty-three people were present.

The supervisor put the agenda on hold to listen to residents on the noise issue. Dave Arnone spoke on the noise issue pertaining to a rock concert on August 23-24. Mr. Arnone stated that with all his windows closed and his air conditioner running he still could hear the lyrics to the songs clearly. He contacted the police and was told there is not a sound ordinance and the state police when contacted on Sunday afternoon, stated that they were not aware of the concert, and would send a car over. The concert stopped an hour later. He asked the board to consider putting in place a sound ordinance. Mr. Carr agreed to revisit the law after we had some experience with it. He was willing to listen to comments from the community. A comment was made that not only was it concert noise, but ATV's, snowmobiles, barking dogs, etc. Attorney, Tal Rappleyea stated that noise ordinances have been reviewed by many towns. The biggest issue is, what is a reasonable standard and the difficulty in regulating. Albany Police told Hal Zucker that when they respond to a noise problem and tell the people they are in violation, they drop it down. He thought we should have something on the books, but keep it as general as possible and open to the interpretation of the law enforcement. Attorney Rappleyea referenced Boomer vs. Atlantic Cement law. There will be additional discussion at the next work session. Attorney Rappleyea will gather info for review.

Mr. Ebers had a proposed boundary change. Attorney Rappleyea requested the original survey to reference the deed. The boundary would be moved 20 feet on the road frontage and approximately 103 feet deep. The survey showed a shed on the property prompting the question of how close would the shed be to the new boundary and it was explained the shed would still be 25 feet from the boundary. **Mr. Elpel made the motion seconded by Mrs. Sutton to approve the boundary change. All were in favor.**

The Moore family had a boundary change. The neighbors had been notified and offered no opposition to the boundary change. **Mrs. Sutton made a motion and seconded by Mr. Elpel to approve the boundary change. All were in favor.**

Mr. Carr made a motion and seconded by Mr. Hulbert to open the Public Hearing for Al & Linda Suwara. Mr. Meehan stated his concerns. His home is about 75 feet from the border of this subdivision and was concerned if the subdivision would turn into commercial property. Mr. Carr

said that Mrs. Suwara could answer the question if she chooses, but was not required to. Mr. Carr further explained that the restrictions made at the time of sale were not made by the town, there were between the seller and the buyer. The town does not currently have land use restrictions or zoning. As far as Linda knew, Al didn't intend to put in anything commercial, but she couldn't speak for him. Mr. Carr said there is no guarantee on what could be there. Mr. Karkheck stated that the Town of Durham considered zoning years ago and overwhelmingly was shot down. Mr. Fried explained that the Town of Cairo is currently developing a "Land restriction use", with assistance from the Hudson Valley Greenway. It is his understanding that it is less restrictive than zoning. Mr. Rappleyea explained that the "Land restriction use" is the first step to developing zoning. Mr. Carr explained that the town would not adopt any form of zoning unless it was the desire of the majority of the residents of the town. Additional discussion followed. **Mrs. Sutton made the motion to close the public hearing for the Suwara Subdivision seconded by Mr. Carr.**

Mr. Carr made the motion seconded by Mrs. Sutton to approved the Subdivision of Al & Linda Suwara, all were in favor.

Mr. Carr made a motion to open the public hearing for Mr. & Mrs. Lamb on Kennedy Lane, seconded by Mr. Hulbert.

It was verified that notifications were made and comments from the floor were entertained. Mrs. Rascoe of The Deer Watch Inn requested a description of what was being subdivided as a neighbor on the opposite side of Kennedy Lane she did not receive notification. It was explained that only adjacent properties were required to receive notification and the two papers of record, The Greenville Press and The Daily Mail published the public hearing announcement. Mr. Lamb explained that his property was being divided into three building lots. Perk tests have been performed and passed on each parcel. In fact, originally, they had planned to divide the lot into four parcels, however, due to perk tests results it was changed to three parcels. There were no objections to the subdivision stated. **Mrs. Sutton made the motion to close the public hearing seconded by Mr. Carr.**

Mrs. Sutton made the motion seconded by Mr. Carr to approve the subdivision of Mr. & Mrs. Lamb, all were in favor.

Dr. Gelhorn presented a proposed subdivision of his property located between County Route 20 and Cochrane Road. It was observed that the parcel would become land locked. Knowing this it would be necessary to attach this parcel to another parcel that has road frontage. A survey is needed to show this attachment or a copy of a contract of sale indicating the attachment. Once this information has been presented to the board a public hearing can be scheduled.

Representatives of the Durham Woods Subdivision addressed the board regarding the changes necessary to their subdivision application. It is necessary to reduce the proposed lots from 19 lots to 9 lots due to soil conditions. A negative declaration has already been determined on the environment impact concerns. All the wet lands have been identified and mapped and drainage issues have been addressed. The cul-de-sac has been moved up and is no longer at the back of the properties. The perk tests have been completed and it has been determined that all the lots will require a fill system at a cost of approximately \$14,000 per lot.

They have applied to the state for the necessary permits, have received a verbal acknowledgement that everything seems to be in order, and would like the town to send a letter indicating their support of this project before they will issue the necessary approval. The new sizes of the lots will range from 2.5 to 5.6 acres.

The mapped wet land "E" indicates that a driveway runs through it. The developers explained that as long as the wet land is less than a tenth of an acre you could run the driveway through it.

Mr. Carr suggested that a wetland engineer be consulted regarding the issue of wetlands as an extra assurance that the wet land concerns are addressed. The representative for Durham Woods clarified that an independent firm identified the wet lands. In addition, it was explained that the drawing presented for review indicated the lines of each lot; however, the meets and bounds still need to be added to the drawing before approval could be granted.

The highway superintendent raised concerns over the cul-de-sac having driveway accesses. When driveways are located on the cul-de-sac the snow plowing would dump a large amount of snow into the driveways. He encouraged the developers to reconsider placement of the driveways so as to relieve themselves of is issue with the land owners. He further explained that the design of the plows pushes the snow to the outside. The developers explained that to move the cul-de-sac to the back of the lots would cost approximately \$10,000 but they are willing to review other options. Additional discussion followed.

Mr. Rappleyea suggested that the board authorize him to draft a letter indicating that the board is generally in favor of the project but an approval is contingent upon the following points: approval by the town engineer, approval by the county based on the 239 referral, etc. It was recommended that a deadline for these approvals be set in order to keep the project moving.

Mr. Young made the motion to adjourn at 9:30 p.m.

Minutes approved:

Chris Kohrs, Deputy Town Clerk