

ZONING COMMISSION REGULAR MEETING MINUTES
February 28, 2012
7:00 PM MULVEY MUNICIPAL CENTER, MULTI-MEDIA ROOM

Members Present: Chairman Tony Marino, Regular Member Harry Ruppenicker Jr., Regular Member Dwayne Xenelis, Regular Member Lee Archer, Alternate Member Mike Engels, Alternate Member Linda Nolf and ZEO Nancy Rudek.

CALL TO ORDER: The meeting was called to order by Chairman Tony Marino at 7:03 p.m.

ESTABLISHMENT OF QUORUM: Chairman Tony Marino seated Mike Engels for Tom Belval and Linda Nolf for Lee Archer.

AGENDA ADDITIONS: None.

PUBLIC HEARING(s):

Upon a motion by Harry Ruppenicker Jr., seconded by Dwayne Xenelis, it was:

VOTED: Unanimously to recess the Regular Meeting and open the Public Hearing portion of the Meeting at 7:04 p.m.

1. **Z2011-14: 2 Pettipaug Road (The Lee Company – Continued Public Hearing on the Special Permit Application to construct Building 9 (73,626 s.f.), a two-story addition to Building 3 (9,637 s.f. footprint), a 599 s.f. pump house, a 9,960 s.f. maintenance garage/storage building and associated site improvements. LI Zone District, 85.9 acres. Applicant: The Lee Company (Property ID #149/Lot #'s 017, 018, 019 / Map #150, Lot #'s 006, 038). (35-day Public Hearing period ends 2-28-12). [possible deliberation & vote]:**

Engineer Matthew White was present and stated that they have address all the comments and concerns made by Woodard & Curran. Mark Pereira of Woodard & Curran stated that he has been working with the applicant since December. A 20' wide emergency access has been shown north of the main entrance. Stop signs and stop bars have been added to the plans as requested. A cross walk and stop bar have been provided at the Building 1 parking area. The proposed sidewalks have been labeled as concrete. Striping has been provided at the top and bottom of the Building 9 stairs. The requested information is being added to the lighting plan, the revised plan will be forwarded early next week under separate cover. Manufacturer cut sheets for the lights and poles have been submitted. A light pole foundation detail has been added to the detail sheet. The storm water pipe between CB C and CB D had been lowered. The plans indicate that Proposed Building 5A will not have water or sewage service. The grading slope of the infiltration basin as been modified. Computations have been submitted for the basin's isolator row. Water quality volume calculations have been submitted. Notes have been added to the plans for procedures and locations for infiltration testing after construction.

Specifications for catch basins in parking area have been provided. A note was added in regards to Basin A detail. Specifications for the fill material in retention basin A have been added to the detail sheet. Pipes have been modified to reduce pipe slopes and a drop manhole was added after MH H. Hooded outlets have been added. Note added regarding Building 5 roof drains. S&E control measures added around the improvements associated with the proposed pump house. The plan has been updated regarding S&E control measures for existing catch basins. As far as the fence on the west side of Pettipaug road, it would have to go up on the Town Right Of Way, so an agreement will have to be made with the Town. Leighton Lee stated that he has met with John Riggio and they discussed the possibility of adding another catch basin on the east side and adding asphalt curbing on the west side. Architect Tom Griven went over the proposed colors for the buildings. The applicant is proposing to install natural boulders to block off the access to Cold Spring Drive.

ZEO Nancy Rudek added the following exhibits to the application:

Exhibit 22 – IWWC Stipulation of Approval, dated February 8, 2012

Exhibit 23 – Email correspondence from property owner Lou Guerrero to Nancy Rudek, dated February 9, 2012

Exhibit 30 – Email from Lou Guererra, dated February 23, 2012

Exhibit 31 – Email from Elizabeth McHaley, dated February 23, 2012

Exhibit 32 – Email correspondence between Leighton Lee and ZEO Nancy Rudek.

At this time, Chairman Tony Marino opened the floor to the public for comment. The following members of the public spoke:

1. Bob Callanan – 359 Cold Spring Drive: Stated his concern for blasting and the effect it will have on wells in the area. Matthew White stated that the company doing the blasting will be licensed and will need to get a permit from the Fire Marshal. They will do a pre-blast survey prior to any blasting.
2. Rich Annino – 375 Cold Spring Drive: Thanked Mr. Lee for putting posts out in the woods, but he only saw 2. Mr. White pointed out on the plans where all the posts are placed and what they represent. Mr. Annino asked if the building is a 1 or 2 story building. Mr. White stated that the building is 1 story. Mr. Annino also asked about the evergreens that are to be planted to improve the site line to Cold Spring Drive residents. Mr. White stated they will be planting white pines.
3. Tom Elliott – Westbrook Land Conservation Trust: Stated that they own 3 properties down slope from this property and is looking for a guarantee that the drainage will be constructed as proposed. Chairman Marino stated that this is an IWWC matter, not Zoning.
4. Rich Annino – 375 Cold Spring Drive: Mr. Annino asked about the proposed lighting. Mr. White stated that they will be using full cut-off lighting which goes straight down. This lighting was approved by Woodard & Curran.

Upon a motion by Harry Ruppenicker Jr., seconded by Dwayne Xenelis, it was:

VOTED: Unanimously to close the Public Hearing for Application Z2011-14 – 2
Pettipaug Road.

Upon a motion by Harry Ruppenicker Jr., seconded by Dwayne Xenelis, it was:
VOTED: Unanimously to approve The Special Permit Application (Z2011-14) for the construction of Building 9 (73,626 s.f.), a two-story addition to Building 3 (9,637 s.f. footprint), a 599 s.f. pump house, a 9,960 s.f. maintenance garage/storage building and associated site improvements in accordance with the development plans submitted with the Application, as revised and together with the conditions set forth herein based on the following findings:

1. The proposed use of the subject site is consistent with the Plan of Conservation and Development and the Commission concurs with the Westbrook Planning Commission findings and decision dated December 15, 2011.
2. The location, type, character and size of the use and buildings proposed are in harmony with the appropriate and orderly development of the Town's Zoning Regulations and business development. The proposed use of the site will not hinder or discourage the appropriate development and use of adjacent property.
3. The proposed use will not depreciate adjacent property values and the size and height of all proposed buildings and the extent of all proposed site improvements are in harmony with the existing character of the business by virtue of its use, architecture and landscaping.
4. The nature and location of the proposed use and of the buildings and structures in connection with the use are adequate for access to it for fire protection, police protection and other emergency equipment.
5. Based upon the Stormwater Management Plan, the proposal will have adequate stormwater drainage and will not adversely impact existing water quality or future public supply sources.
6. Adequate provision has been made for entering and leaving the site in such a manner that no undue hazard to traffic or undue traffic congestion will be created. Off-site traffic is being reviewed by the State.
7. Suitable landscaped buffers and screening have been provided between the subject use and the adjacent properties.
8. The subject site has adequate water (domestic) and on-site septic systems to service the proposed use.
9. The proposed use and the arrangements of all proposed buildings, structures, facilities and other site improvements are in compliance with all applicable provision of the Zoning Regulations.

This approval is granted subject to conformance with the referenced plans (as may be modified by the Commission) and the following conditions:

1. Any off-site traffic considerations are to be reviewed under a State Traffic Commission Application and as such, approved by the State.
2. Crosswalk to be provided that extends from staircase on Building 9 to the sidewalk.

3. The applicant will adhere to the recommendations of the Westbrook Fire Department. Fire suppression measures, including hydrant locations, pressure and volumes from the proposed pump building, will be submitted at the time of Building Permit.
4. If it is determined that blasting needs to occur, the Applicant shall perform a pre-blasting survey in accordance with the Fire Marshal.
5. The applicant should demonstrate to the ZEO that adequate XFU (Explosion, Collapse, and Underground Damage) insurance coverage is obtained for the structures noted in the pre-blast survey area.
6. Natural boulders will be installed at the frontage of the access road to Cold Spring Drive, to impede vehicular trespass.

2. Z2011-18 – Middlesex Hospital – Flat Rock Place, Lots 166/023 and 166/034 – Text Amendment application for a proposed change to the Zoning Regulations to allow an Emergency Outpatient Medical Care Facility and an associated Helistop in the TIC-65 Zone District. Applicant: Middlesex Hospital. (35-day public hearing ends 4-3-12) [possible deliberation & vote]:

The Public Hearing for Application Z2011-18 was called to order at 7:32 p.m.

At this time, Linda Nolf and Dwayne Xenelis recused themselves. The following members are seated for this application: Tony Marino, Lee Archer, Harry Ruppenicker Jr., and Mike Engels, which does constitute a quorum.

At this time, Chairman Marino stated for the record that he has a small financial matter with the applicant, but feels there is no conflict of interest with this application.

Attorney Ed Cassella was present, as well as Harry Ebart, Vice President of Middlesex Hospital, Architect Steve Dougherty, Project Manager Tim Cavanaugh and Tom Coughlin. Attorney Cassella stated that this property is Lots 3 & 4 of Flatrock Place and they are looking to relocate the Shoreline Clinic from its Essex location to this location. The purpose for this application is for the following: Define “New Use”, define specific aspects of use – Helistop and define parking standard for the new use. Harry Ebart stated that the Shoreline Clinic has been in its current location in Essex for 38 years. They have outgrown the facility and have looked into enlarging the current facility, but there is not enough room to do so. The new location at Flatrock place not only has the room for a larger facility but also has better accessibility from Route 1 and I-95. They will not be purchasing the property until this application is approved. They feel that this will be a good economic fall-out for Westbrook and local vendors. Architect Steve Dougherty showed the architectural drawings of the building that will be proposed. There will be 2 curb cuts onto Flat Rock Place. One for emergency traffic on the east end and a second for general traffic on the west end. Chairman Marino pointed out that the Public Hearing for tonight is only for a text change in the regulations, not what they will eventually propose. Attorney Cassella that regional type developments already exist in the area and this type of development would fit. The infrastructure already exist for traffic with a close proximity to I-95. There is no traffic report available yet, but they do have some preliminary numbers. Information from BL Companies were distributed. The building to be proposed will be 40,000 to 50,000 square feet with a potential addition of another 20,000 square feet, not including mechanicals. The

proposed traffic would be approximately 1/5 of what was proposed for the Stop & Shop application. There will not be any expansion of services already offered and they will have minimal new employees.

Phase II of the development would be based on community needs. Services may increase in 5 to 10 years. As far as parking is concerned, they feel that 275 to 300 spaces would be adequate. 350 spaces would be needed if the mechanicals are included in the square footage. If reserve parking is needed, it could affect the storm water detention.

The Helispot will be located on the northeast corner of the site. Last year they had approximately 35 helicopter trips at the Essex location.

The following correspondence was entered into the record:

1. CRERPA Letter dated 2/7/12.
2. DEEP Letter dated 2/23/12.
3. Planning letter dated 2/16/12.

Chairman Marino asked the applicant if they have considered impervious surface. Attorney Cassella stated that they have not discussed this yet.

At this time, Chairman Marino opened the floor to the public for comment. The following members of the public spoke:

1. Gregg Prevost – Chief of Westbrook Ambulance Association: Mr. Prevost stated that he is in favor of the proposal, but is concerned about ambulance parking. He is hoping that the area for ambulance parking will be expanded that what it currently is. He also stated that he feels that during peak hours, the current parking lot is very full and feels that it is not adequate. He feels more people will go to the new facility and more demand for parking.
2. Darlene Briggs – Middlesex Chamber of Commerce: Stated that they are in full support of the proposal.
3. Vivian Partridge – Westbrook Resident: Stated that she is a Nurse and has never had a problem with the parking at the current facility. She further stated that she is in full support of the proposal.
4. Ben Dirgens – 14 Orchard Drive: Wanted clarification of the flight path of incoming helicopters. He is concerned about the fog in the area. It was stated that Life Star only flies in favorable conditions. Mr. Dirgens also stated that he is concerned about the helicopters causing distractions on I-95. It was stated that there has never been any problems at any other facility.

Chairman Marino asked the Town Engineer if he had any comments on the application. Mr. Periera stated that he would recommend that the Commission follow the requests made in the Planning Commissions letter. Chairman Marino stated that the calculation of parking spaces needs to be discussed. Attorney Cassella stated that if you go by 1 space per 270 g.s.f., that would put the amount of proposed spaces at 298.

At this time, Chairman Marino asked if there were any other members of the public who wished to speak. There were none.

Upon a motion by Lee Archer, seconded by Mike Engels, it was:

VOTED: Unanimously to close the Public Hearing on Application Z2011-18 at 8:45 p.m.

Upon a motion by Harry Ruppenicker Jr., seconded by Lee Archer, it was:

VOTED: Unanimously to approve Application Z2011-18 for the adoption of text change to the Zoning Regulations to allow an Emergency Outpatient Medical Care Facility and an associated Helistop in the TIC-65 Zone District, as proposed with the exception that under Section 10.06.12a, 1 parking space per 270 g.f.a. will be proposed in place of 230 g.f.a. Said adoption will go into affect 3/22/12.

3. Proposed Amendments to the Westbrook Zoning Regulations – Text Amendments proposed by the Zoning Commission for changes to: Sections: 4.02.00, 4.03.01, 4.11.01a, 4.12.00, 4.13.01, 4.21.01a, 4.22.00, 4.22.01, 4.23.01, 4.32.00, 4.41.01, 4.41.01a, 4.43.00, 4.43.13, 4.52.01, 4.52.06 [c], 4.63.00, 4.72.00, 4.82.00, 4.93.00, 4.94.00, 4.111.04, 4.113.02(a)&(b), 4.113.03, 4.113.03g (Multi-Family and Special Permit/Site Plan Designations). [possible deliberation & vote]:

At this time, Dwayne Xenelis returned to his seat as a voting members. The members sitting for this Public Hearing are Chairman Tony Marino, Lee Archer, Harry Ruppenicker Jr., Dwayne Xenelis and Linda Nolf.

Upon a motion by Harry Ruppenicker Jr., seconded by Lee Archer, it was:

VOTED: Unanimously to open the Public Hearing for Proposed Amendments to the Westbrook Zoning Regulations at 8:48 p.m.

The following correspondence was entered into the record:

1. Planning Commission Letter dated 2/27/12.

At this time, Chairman Marino opened the floor to the public to comment on the proposed changes. The following members of the Public spoke:

1. Vivian Partridge stated that she feels that these changes will make it more difficult to build affordable housing. She feels that these changes will be over-regulating things. The regulations need to be less complicated and less expensive.

Upon a motion by Harry Ruppenicker Jr., seconded by Linda Nolf, it was:

VOTED: Unanimously to close the Public Hearing on this application at 9:02 p.m.

Upon a motion by Harry Ruppenicker Jr., seconded by Linda Nolf, it was:

VOTED: Unanimously to approve the proposed changes to the Westbrook Zoning Regulations in the following Sections:

- 4.02.00, 4.03.01, 4.11.01a, 4.12.00, 4.13.01, 4.21.01a, 4.22.00, 4.22.01, 4.23.01, 4.32.00, 4.41.01, 4.41.01a, 4.43.00, 4.43.13, 4.52.01, 4.52.06 [c], 4.63.00, 4.72.00, 4.82.00, 4.93.00, 4.94.00, 4.111.04, 4.113.02(a)&(b), 4.113.03, 4.113.03g (Multi-Family and Special

Permit/Site Plan Designations) as indicated in yellow high lights, with the addition of the following changes: Page 4-10, Section 4.52.06c will now read: “Residential Apartments over Commercial uses” and Page 4-28, Section 4.113.01a will now read “Single-family detached dwellings and Section 4.113.01b will now read “Two (2) family dwellings. Said changes to have an effective date of 3/22/12.

Upon a motion by Dwayne Xenelis, seconded by Lee Archer, it was:

VOTED: Unanimously to close the Public Hearing portion of the meeting and re-convene the Regular Meeting at 9:06 p.m.

NEW BUSINESS:

The same members as previously noted are voting members unless otherwise noted.

RECEIPT OF APPLICATIONS:

1. Z2012-03a – 450 Spencer Plains Road – Proposed Zone Map Change for a 1 acre parcel from existing LDR zone to HOD zone (Housing Opportunity District);

And

2. Z2012-03b – 450 Spencer Plains Road – Proposed Amendment to the Zoning Regulations – new Section 8.25.00 Housing Opportunity District;

And

3. Z2012-04 – 450 Spencer Plains Road “Ethans Landing” – Proposed attainable housing development, pursuant to CGS 8-30g, consisting of 15 residential units in four buildings (2 buildings with eight units) located on one acre in Westbrook and (two buildings with seven units) proposed on the adjacent one acre parcel in Old Saybrook, CT. Applicant George Bessoni

(65-day application period ends 5/3/12 for all 3 applications):

Attorney Ed Cassella and Engineer Joe Wren were present representing Applicant George Bessoni. Attorney Cassella stated that this project is an 830g affordable housing development. They are working with Planning and Zoning for this development. One half of the proposal is in Westbrook and one half is in Old Saybrook. They are proposing a total of 15 units, 8 of which will be located in Westbrook and 7 of which will be in Old Saybrook. 3 of the ones located in Westbrook will be affordable housing as well as 2 units in Old Saybrook. They have filed an IWWC application in both Towns. This Commission would only be approved what is proposed in Westbrook.

Upon a motion by Harry Ruppenicker Jr., seconded by Lee Archer, it was:

VOTED: Unanimously to accept Applications Z2012-03a, Z2012-03b and Z2012-04 and to set a Public Hearing for all 3 on April 24, 2012 at 7:00 p.m. in the Multi-Media Room at the Westbrook Mulvey Municipal Center.

OLD BUSINESS:

1. Z2011-17 – 316 Essex Road – Proposed Zone Map Amendment to change a 2.1 acre area out of a 6.1 acre parcel that is an existing MDR Zone District to NCD Zone District, located on the east side of Essex Road. (Rte 153 & north of I-95) (Property ID

#166, Lot #027). Applicant Eve Barakas (closed hearing on 1/24/120 (35-day decision period ends 3/29/12) [possible deliberation & vote].

At this time, Lee Archer recused himself from this application and Chairman Marino seated Mike Engels in his place.

Harry Ruppenicker Jr. stated that he feels that this application should have gone to ZBA for a Use Variance instead of coming before this Commission for a Zone change. He feels this is "Spot Zoning" and is opposed to the application. Once it's changed, it's changed. This business will not be there forever and he feels that that leaves it open for some other type of development in the future. Mike Engels stated that he feels the same as Mr. Ruppenicker Jr. Chairman Marino stated that this Commission cannot make a decision on what another regulatory commission might do.

A motion was made by Harry Ruppenicker Jr., and seconded by Linda Nolf, to:

Deny the application (Note: 3 aye votes are needed for the motion to carry)

Discussion: Dwayne Xenelis this should become a NCD at some point but doesn't feel the Planning Commission has thought this out completely about making the change. He would be more inclined to approve this application if the Planning Commission moved forward with changing the area to NCD. He stated that he is also concerned about "spot Zoning". Chairman Marino stated that he agrees with Mr. Xenelis that this is a good spot for NCD, but needs to be tied in with the Planning Commissions plans for the future, not "spot Zoning". If this application were to be approved, it will open the door for neighboring residential properties to request the same thing.

VOTE: Ayes: Harry Ruppenicker Jr., Dwayne Xenelis and Linda Nolf. Nays: Tony Marino and Mike Engels. The motion carried, the application was denied.

2. Z2012-02 – 316 Essex Road – Site Plan Application for the proposed conversion of an existing dwelling to a professional Business Office, and improvements to parking area. Applicant: Eve Barakas – Tables receipt of application. (65-day application period ends 5/3/12) [possible deliberation & vote]:

Attorney Dave Royston stated that the applicant wished to withdraw the application.

MISCELLANEOUS:

- 1.79 Boston Post Road** – Food trailer vendor: Herb Peterson, property owner has someone who wants to put up a food trailer on the property. Mr. Peterson stated that this is an allowable use on his property. ZEO Nancy Rudek stated that this is for information only at this point. The use on the property is not clear, it is a very grey area and she needs to look at the history of this property.

COMMISSION BUSINESS MEETING:

1. ZEO Report: Distributed and discussed.
2. Miscellaneous Correspondence:
 - a. Copy of 1/26/12 letter from Federal Emergency Management Agency to First Selectman Noel Bishop regarding preliminary revised copies of Flood Insurance Study.
 - b. Copy of letter dated 2/7/12 from CRERPA to Killingworth P & Z regarding Mixed

- Uses in Large Commercial District, Gift Basket/Wine Permit, Outdoor Wood Burning Furnaces, Site Plans, Special Exceptions and Zoning Permits.
- c. Copy of Notice of Violation dated 2/7/12 from Westbrook Building Official to property owners of 21 Boston Post Road.
 - d. Copy of proposed new Bills in legislation.
 - e. Copy of information from Shipman & Goodwin regarding CT Supreme court clarification on procedures for property inspection by ZEO's.
 - f. Copy of letter dated 1/19/12 from DEEP to property owner at 70 Captains Drive regarding Certificate of Permission Application #201107202-SB.
 - g. Copy of letter dated 1/27/12 from DEEP to property owner at 63 Pilots Point Drive regarding Certificate of Permission #20117135-SB.
 - h. Copy of IWWV Notice of Violation dated 2/17/12 for property located at 977 Boston Post Road.
 - i. Copy of December 2011 Conservation Commission Minutes.
3. Zoning Monthly Budget Report: Distributed.
4. Bills: The following bills have been paid:
- Branse, Willis & Knapp: \$2,524.50 for Invoice #29542, 29543, 29544 & 29545
 - Woodard & Curran: \$97.50 for Invoice #89550
 - Nathan L. Jacobson Associates: \$59.63 for Flood Plain Initial Review of 60 Chapman Beach Road.
 - Recording Secretarial Services: \$264.00 for Lisa DeMaria and Katie Kelemen
 - Hartford Courant: \$217.80 for Invoice #01/31/2012
 - WB Mason: \$27.22 for miscellaneous supplies
5. Enforcement: Information was distributed for the following enforcement issues:
- a. Lorensen Toyota.
 - b. Water's Edge.
 - c. 45 Salt Island Road.
 - d. 165 Salt Island Road
 - e. 846 East Pond Meadow Road

APPROVAL OF MINUTES:

1. January 24, 2012 Regular Meeting: Upon a motion by Harry Ruppenicker Jr., seconded by Dwayne Xenelis, it was:

VOTED: Unanimously to approve the minutes of January 24, 2012, as submitted.

Upon a motion by Lee Archer, seconded by Harry Ruppenicker Jr., it was:

VOTED: Unanimously to add Approval of Minutes – Special Meeting 2/15/12 to the Agenda.

2. February 15, 2012 Special Meeting: Upon a motion by Lee Archer, seconded by Dwayne Xenelis, it was:

VOTED: Unanimously to approve the minutes of the Special Meeting of February 15, 2012 with the following correction: Page 1: Change “Regular” to “Special” on the first line.

ADJOURNMENT

Upon a motion by Harry Ruppenicker Jr., seconded by Dwayne Xenelis, it was:
VOTED: Unanimously to adjourn this Regular Meeting at 9:53 p.m.

Respectfully submitted:

Kathleen H. Kelemen, Secretary