

ZONING COMMISSION REGULAR MEETING MINUTES

April 26, 2011

7:00 PM MULVEY MUNICIPAL CENTER, MULTI-MEDIA ROOM

Members Present: Chairman Tony Marino, Regular Member Harry Ruppenicker Jr., Regular Member Chris Ehlert, Regular Member Tom Belval, Alternate Member Tom D'Antico (seated for Lee Archer) and ZEO Nancy Rudek.

CALL TO ORDER: Chairman Tony Marino called the regular meeting to order at 7:00 p.m.

ESTABLISHMENT OF QUORUM: Chairman Marino seated Tom D'Antico for Regular Member Lee Archer.

AGENDA ADDITIONS: None.

PUBLIC HEARING(s):

Upon a motion by Tom Belval, seconded by Tom D'Antico, it was:

VOTED: Unanimously to open the Public Hearing for Z2011-02, 1587 Boston Post Road:

1. Z2011-02 – Public Hearing for a Special Permit for the proposed use of a Family Entertainment Center, to be operated in an existing building: Applicant Michael Pill. (35-day public hearing ends 5-31-11)

Applicant Michael Pill presented a proposal to establish a Family Entertainment Center in an existing vacant retail store at The Shops for Water's Edge. Mr. Pill provided an overview of the proposal, explaining that his intention is to promote a family environment, with an age range of 3-4 years through 16 year olds. There will be no outside games, music or noise. No loitering is permitted. An individual over the age of 18 years old must be in attendance at all times. There will be on-site security, which will be required as part of the lease with Water's Edge. The area of use will be approximately 3250 square feet with 50 games. There are no changes to the interior and they will be utilizing the existing bathrooms. The hours of operation will be 7 days a week for 13 weeks following the end of the school year, then when school begins again, the use will be reduced to Friday, Saturday, Sunday and possibly one day during the week. Mr. Pill reiterated that the text amendment, which was approved at the March 22nd meeting, allowing the use in accordance with the regulations and located 100 feet from a resort.

Chairman Marino read into the record, the letter from the Planning Commission, dated April 14, 2011. He also noted that the property received previous variances for parking at The Shops at Water's Edge. The property owner had submitted a letter in favor at the 3/22/11 meeting during the text amendment process. It was discussed among the Commission members and noted for the record, that if parking issues arise, it is the property owner's responsibility to address them.

Chairman Marino queried the audience for public comment. There were no comments in favor or in opposition of the application.

A brief discussion took place between the Commission members and applicant regarding the use of food being brought in for parties. Mr. Pill acknowledged that pizza or cakes

could potentially be brought in for a specific party, but no preparation of food will be conducted.

Vice Chairman Ruppenicker, Jr. referred to the prepared Motion, recommending substituting the word, 'served' to 'sold', under #3 of the Stipulations. The Commission also concurred to delete #6 of the added stipulations as it wasn't applicable.

Upon a motion by Harry Ruppenicker Jr., seconded by Tom Belval, it was:

VOTED: Unanimously to close the Public Hearing for Z2011-02, 1587 Boston Post Road.

Upon a motion by Tom Belval, seconded by Tom D'Antico, it was:

VOTED: Unanimously to reconvene to the Regular Meeting.

Z2011-02 – Public Hearing for a Special Permit for the proposed use of a Family Entertainment Center, to be operated in an existing building: Applicant Michael Pill.

Upon a motion by Harry Ruppenicker Jr., seconded by Tom Belval, it was:

VOTED: Unanimously to approve application Z-2011-02 with the following stipulations:

- 1) No utilization of outside areas, including no outdoor music or public address system.
- 2) Outside loitering is prohibited and may require a posted sign per police authority.
- 3) Only pre-packaged food and soft drinks will be sold by vending machine; any incidental food

handling services must be approved by the Health Department, but seating for the sole purpose of

food consumption is prohibited under this Special Permit.

- 4) A supervisor, age eighteen (18) or older, must be on the premises at all times while the business

is open to the public or otherwise in use.

- 5) The hours of operation shall not be earlier than 10:00 a.m. or later than 8:00 p.m. on any given day.

Continued PUBLIC HEARING for a proposed new Zoning Regulation for Accessory Apartments

Upon a motion by Chris Ehlert, seconded by Tom Belval, it was:

VOTED: Unanimously to open the continued public hearing for a proposed amendment to the Zoning Regulations, Section 8.00.00-through 8.00.06 Accessory Apartments:

Chairman Marino cited the two sections that are highlighted on the copies of the draft regulation. These two sections were questioned at the last meeting. Attorney Mark Branse provided responses as noted on the draft regulation. The Commission deliberated over language regarding "owner occupied", noting that there are situations where a trust may own the property, but not reside in the primary house or accessory structure, thereby, not meeting the intent of the regulation. Different scenarios were discussed and possible changes to the language. There are concerns with leaving circumstances to 'common sense'. It was decided to seek additional language for this section from Zoning legal counsel.

Chairman Marino opened the floor to the public for comment on the proposed regulations. The following members of the public spoke:

1. Nancy Moore raised questions about the wording that the owner must live in the main house. Specifically, if a property already has a pre-existing accessory apartment, do the new regulations apply? There was further discussion among the Commission and ZEO regarding pre-existing accessory apartments. This matter, along with the other question about owner residence will be brought to Attorney Mark Branse for clarification.

The discussion continued with the second matter that was highlighted for further exploration. New language was offered by Mark Branse regarding the residence having only one electrical meter, and that this may not be a strong deterrent for preventing the accessory apartment from becoming a rental unit. Commission member Tom Belval noted his opinion that the requirement of one meter is a supplemental deterrent to maintain the apartment as accessory to the primary house and not a separate rental unit. Chairman Marino reiterated the situation that was brought up at the last meeting in which a person who receives energy assistance may be required to have a separate meter by an agency offering funding assistance. The Commission concurred to use the alternative language to Section 8.00.03 g) "The primary structure and the accessory apartment shall be served by a single electrical meter. Separate meters may be allowed where the applicant demonstrates a legitimate need for such a separate meter".

Upon a motion by Harry Ruppenicker Jr., seconded by Tom Belval, it was:

VOTED: Unanimously to continue the hearing on Accessory Apartments to the May 24, 2011 Agenda, pending clarification of language for ownership.

Upon a motion by Tom Belval, seconded by Tom D'Antico, it was:

VOTED: Unanimously to reconvene to the Regular Meeting.

NEW BUSINESS:

Receipt of Applications:

1. Z2011-04 - 54 Captain's Drive - CAM (Coastal Area Management) Application for a proposed new construction of non-conforming residential structure, destroyed by fire in July 2011. house. CB Zone District – 0.38 acres (Property ID #195/015)

ZEO Nancy Rudek reported that this application for Coastal Review has been sent to the DEP-OLISP for review. The proposal is to rebuild the structure in the same non-conforming footprint and height as was existing when the house was destroyed by fire in July 2011. Attorney Brian Dumeer, who is representing this application, further explained that, as proposed, there the only changes involved a smaller square footage of the tower portion and that two of the former decks that extended over the high water mark are proposed with a cut-off of that extension to bring them back out of the high tide area. Mr. Dumeer also explained that he has had discussions with the ZEO to determine that the site did not require a stormwater management plan. The ZEO confirmed that the proposal will not exceed 20% impervious area, and that there are no

proposed changes to the grading on the site. Mr. Dumeer will be providing the percentage numbers from the architect.

Upon a motion by Chris Ehlert, seconded by Tom Belval, it was:

VOTED: Unanimously to accept receipt of CAM Application # Z2011-04 (54 Captain's Drive), and continue it to the May 24, 2011 meeting, pending review comments from the DEP-OLISP.

2. Z2011-05 - 128 Little Stannard Beach - CAM (Coastal Area Management) Application for the proposed demolition and new construction of a residential house on the south side of Little Stannard Beach Road. HDR Zone District, 0.12 acres, (Property ID #182/022)
ZEO Nancy Rudek explained that this property is on the water side, thus a Coastal Application is required. It was sent to the DEP-OLISP for review. Additionally, the proposal, which involves the demolition and reconstruction of a new house, exceeds the 20% impervious surface area. Therefore, to determine compliance with the new Stormwater Regulations, the application requires a stormwater management plan. Ms. Rudek noted that a drainage analysis summary of existing and proposed conditions was submitted with the application. She further noted that this application for single family development is the first one submitted under the new Stormwater Regulations. She also explained that the current Fee Schedule does not have a system in place to require the applicant to pay for an outside engineering review. Chairman Marino offered that it may be prudent to have the proposal reviewed by Woodard & Curran for stormwater runoff. The Commission members concurred and noted that the Fee Schedule will need to be revisited. ZEO Rudek will explore the matter of revising the fee's and provide the Commission with proposed options.

Upon a motion by Tom Belval, seconded by Chris Ehlert, it was:

VOTED: Unanimously to accept receipt of CAM Application # Z2011-05 (128 Little Stannard Beach Road) and continue it to the May 24, 2011 meeting, pending review comments from the DEP-OLISP and Woodard & Curran.

OLD BUSINESS: None

MISCELLANEOUS: None

COMMISSION BUSINESS

1. **ZEO Report:** Report was distributed and discussed.
2. **Miscellaneous Correspondence:**
 - a. Letter dated 4/7/2011 from Nancy J. Rudek to Elizabeth Rosario/FEMA, requesting a meeting to clarify Westbrook's Community Rating System.
 - b. House Bill 6400- Letter dated 4/12/2011 to Legislative Representatives regarding proposed bill for Stormwater, "An Act Concerning Licensure of Stormwater Professionals".

Commissioner Chris Ehlert noted that a letter in opposition was sent to the Town's representatives by the ZEO on behalf of the Zoning Commission.

c. Proposed Dock on Old Mail Trail – Communications between Zoning, DEP and Harbor Mgmt Commission concerning a proposed dock on 0.01 acre lot. The ZEO reported that she has been in contact with the DEP, who noted that the dock didn't meet the standards for DEP approval, in addition to concerns with navigation.

d. Relocation of fuel storage tanks – Letter dated 4/8/11 from WB Fire Personnel to Noel Bishop regarding options for relocation of the town fuel tanks. Commissioner Tom Belval queried the status of this matter. The ZEO noted that the location was discussed and is a tentative location—the Zoning Regulations for that zone district prohibited Fuel Storage Facilities. This subject will be further discussed at the 4/28/11 meeting of the Board of Selectmen / Towns Exempted from Zoning – Draft Table showing 45 towns and whether they are exempt or not from Zoning Regulations. The subject of making the town exempt from Zoning Regulations was another alternative being proposed in the letter from the Fire Department.

e. Pazzo's Restaurant- Letter dated 3/27/2011 from Health Dept to owner, requesting clarification of total seating for establishment.

f. Affordable Housing law – Letter dated 3/23/2011, from Ledyard, requesting support for House Bill 5479, regarding Affordable Housing appeals, seemingly to clarify existing Statute 8-30g.

g. Little Flockers article – public interest story about chickens in Westbrook, in the April 2011 edition of Connecticut Magazine.

h. IWWC meeting minutes from their 4/5/2011 meeting.

i. Conservation Commission meeting minutes from their 2/15/2011 meeting.

3. Proposed Amendments for future Public Hearing:

Copies of a proposed Junk Regulation were distributed to the Commission Members. A brief discussion ensued on whether the amendment is of such detail similar to a Blight Ordinance and the difficulty of the ZEO having sufficient time to enforce. Chairman Marino requested that the Commission members review the draft amendment and bring comments to the May 24th Zoning Meeting.

4. Bills:

Regular Budget: 2010/2011

Upon a motion by Chris Ehlert, seconded by Tom Belval, it was:

VOTED: Unanimously to approve payment of the following invoices, some of which were previously paid as per the new policy to authorize the ZEO, with the approval of the Chairman or Vice Chairman to approve payments on behalf of the Zoning Commission. To lessen the confusion of what's listed on the Agenda, all bills will be paid as they come in, however, the list on Agenda will be continued for the Commission's knowledge.

Approved for payment:

- | | |
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| •Branse, Willis & Knapp: <u>\$493.00</u> | (General Legal Invoice #27631) |
| •Recording Secretarial Services: <u>\$122.91</u> | (J. Aiken, 3/14/11 Spec. Mtg.) |
| •Recording Secretarial Services: <u>\$115.58</u> | (K. Kelemen, 02/22/11, 03/22/11 Mtg.) |
| •Hartford Courant: <u>\$339.72</u> | (Legal Notices – Inv.3717227) |
| •Mileage Reimbursement: <u>\$77.99</u> | (ZEO mileage, 12/10 through 4/11) |
| •Woodard & Curran: <u>\$1,473.75</u> | (Additional Review of proposed Lighting Regulation) |

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- Woodard & Curran: **\$1,732.50** (Draft Stormwater Regulations & Attendance @ mtg. & hearing)
- Ciel Inc. Printer Services :**\$102.18** (Printing fees for new regulation copies , Inv. # 37432)
- Ciel Inc. Printer Services: **\$54.00** (Copies of Toyota plans approved by ZBA – for Zoning counsel)

APPROVAL OF MINUTES: March 22, 2011 Regular Meeting

Upon a motion by Harry Ruppenicker Jr., seconded by Tom D'Antico, it was:

VOTED: Unanimously to approve the minutes of the Regular Meeting for March 22, 2011.

ADJOURNMENT

Upon a motion by Tom Belval, seconded by Tom D'Antico, it was:

VOTED: Unanimously to adjourn this Regular Meeting at 8:06 p.m.

Respectfully submitted:

Kathleen H. Kelemen
As taken by ZEO Nancy Rudek