

**ZONING COMMISSION REGULAR MEETING CORRECTED MINUTES
JULY 22, 2014
7:00 PM MULVEY MUNICIPAL CENTER, MULTI-MEDIA ROOM**

Members Present: Chairman Tony Marino, Vice Chairman Harry Ruppenicker Jr., Regular Member Mike Engels, Regular Member Lee Archer, Regular Member Dwayne Xenelis Alternate Member Tom D'Antico, Alternate Member Linda Nolf (arrived at 7:21 p.m.), ZEO Nancy Rudek, Town Planner Meg Parulis, Attorney Matt Willis and Attorney Eliza Heins.

CALL TO ORDER: The meeting was called to order by Chairman Tony Marino at 7:05 p.m.

ESTABLISHMENT OF QUORUM:

Chairman Marino stated that all 5 Regular Members are present.

AGENDA ADDITIONS:

None.

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

VOTED: Unanimously to adjourn the Regular Meeting and open the Public Hearing portion of the meeting at 7:06 p.m.

PUBLIC HEARINGS:

1. ZC2014-007 – Proposed Regulation Amendment – Section 5.00.00 – Public Hearing on the Town of Westbrook Application for proposed regulation changes to Floodplain Management Regulations to be in compliance with updated Building Code requirements for LiMWA (Limit of Moderate Wave Action) [possible deliberation and vote]:

A letter dated 7/22/14 was received from the Westbrook Planning Commission which states that the Board voted unanimously that this application is consistent with the Plan of Conservation and Development goals to manage flood risks and continue to participate in and comply with federal programs. Town Planner Meg Parulis stated the regulations need to be consistent with FEMA regulations and building codes. Basically the only changes were some definitions and some mandated changes. A letter dated 7/21/14 was received from CT DEEP, which was read for the record.

At this time, the floor was opened to the public to speak for or against the application or ask questions. There was no one from the public who wished to speak.

2. ZC2014-012 – 36 Westbrook Place – (Property ID: 176/125), Public Hearing on the Special Permit Application for the removal of existing building and construction of new building for office use. Property owner: CMA Real Estate LLC (35-day public hearing period ends 9/04/14) [possible deliberation and vote]:

And;

2a. ZC2014-012 – 36 Westbrook Place – (Property ID: 176/125) Coastal Area Management (CAM) Application associated with Special Permit ZC2014-012, 36 Westbrook Place. (35-day public hearing period ends 9/4/14) [possible deliberation and vote]:

A letter dated 7/22/14 from Cloutier & Cassella, Attorneys at Law, requesting an extension.

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

VOTED: Unanimously to grant an extension to the Applicant and move the Public Hearing to August 26, 2014 at 7:00 p.m. to be held in the Multi-Media Room at the Mulvey Municipal Center.

3. ZC2006-02M – 1306 Boston Post Road – Continued Public Hearing for a Special Permit Modification Application to previously approved permit Z0602. Proposal involves a single family residence, a two-family residence, and bakery establishment. (Sections 4.52.03, 4.52.06a & 4.53.06b). Property owner: 1306 Post Rd LLC (35-day public hearing period ends 7/29/14) [possible deliberation & vote]:

A letter was received from Cloutier & Cassella, Attorneys at Law, requesting a continuance to the August 26, 2014 Meeting.

Upon a motion by Dwayne Xenelis, seconded by Mike Engels, it was:

VOTED: Unanimously to approve the continuance as requested and move the Public Hearing to August 26, 2014 at 7:00 p.m. to be held in the Multi-Purpose Room at the Mulvey Municipal Center.

Upon a motion by Harry Ruppenicker Jr., seconded by Mike Engels, it was:

VOTED: Unanimously to close the Public Hearing Portion of the meeting and reconvene the Regular Meeting at 7:26 p.m.

REGULAR MEETING:

OLD BUSINESS:

1. ZC2014-013 - 1961 Boston Post Road – Application for a proposed Zone Map Change on Parcel #113 of Assessor’s Map #180 & Parcel #174 of Assessor’s Map #180, from NCD (Neighborhood Commercial District) to PRDD (Planned Residential Development District) Property owner(s): 1961 BPR LLC & Chapman Beach Commons LLC c/o Peter Boccarosa. (public hearing closed – 65-day decision period ends 8/28/14):

Chairman Marino stated that the public hearing for this application was closed and now is the time to deliberate and possibly vote on the application. Board Member Lee Archer stated for the record that he does not feel that he has a conflict with the application (his wife’s stepbrother is an abutting property owner) and feels that he can remain objective. Board Member Dwayne Xenelis stated for the record that he listened to the beginning of the tape from the June Meeting.

Dwayne Xenelis stated that the Board has to decide if the application meets all PRDD Standards. Lee Archer stated that he did not feel that it meets the requirement for Section 9.10.03h. Dwayne Xenelis stated that the Board is not considering the proposed building at this time, only the zone change. Board Attorney Matt Willis stated that you can consider what they are proposing for the building because the applicant has to give a preliminary proposal to what they will be doing with the property. Tony Marino stated that he feels this is a Boston Post Road development and not a Chapman Beach Road development.

Board Attorney Matt Willis stated that the petition submitted was legal and therefore, the vote would have to be 4 out of 5 to vote yes in order for the application to be approved. Harry Ruppenicker Jr. asked if the Board could consider whether the proposed building will affect property values for the neighborhood. It was stated that this would not be a zoning issue. Mike Engels asked if this property would have beach rights to Chapman Beach. Again, this is not a zoning issue. Lee Archer stated that he disagrees that this plan is consistent with the Plan of Conservation and Development (POCD). He stated he sat on the committee to develop the POCD and doesn't feel this is consistent. Harry Ruppenicker Jr. stated that he feels the application meets the non-subjective requirements of PRDD, but we need to interpret the subjective requirements. Chairman Marino read the requirements. Lee Archer stated he feels the zone should stay NCD and not be changed to PRDD.

A motion was made by Harry Ruppenicker Jr., and seconded by Mike Engels, to:
Approve an amendment to the Zoning Map of Westbrook, to change Parcel #'s 113 and 174 on Assessor's Map 180 from and NCD (Neighborhood Commercial District) to a PRDD (Planned Residential Development District) for a multi-family development, know as Settlers Landing. The Planning Commission has endorse the change from NCD to PRDD stating it is consistent with Westbrook's Plan of Conservation and Development. The Planning Commission finds the change should reflect the nature of Route 1, and not be limited by the adjacent residential uses. The Zoning Commission finds that this is an appropriate location for a PRDD zone based on its proximity to Route 1, and the size of the lot. This Zone Change shall be effective upon publication of legal notice and has the following stipulation:

1. The two lots shall be combined by Deed into one lot prior to the issuance of a Building Permit, with a copy provided to the ZEO.

Discussion: Lee Archer stated that there was a previous approval that was ambitious at that time and this proposal is much larger. Tony Marino asked if we would be eliminating zoning's special permit requirements. It was answered that we are not. Lee Archer stated that he feels that there is a safety issue because of lack of sidewalks. Town Planner Meg Parulis stated that there is some overlap with special permit requirements and PRDD requirements. Board Attorney Willis stated if this is a project that you don't agree with, don't approve the zone change. Meg Parulis stated the zone has the standards that go with it. Lee Archer stated again that he feels that the proposal for the property is too big and doesn't fit the character of the neighborhood. Dwayne Xenelis stated that he likes the idea of a building being there, but is still concerned about the size of the proposal and the possible future use. Harry Ruppenicker Jr. pointed out that the Board has never asked any other applicant 'what if your business fails'. Dwayne Xenelis stated his concern that, if approved, we would be setting a precedent. He is also concerned about this proposal affecting the property values. There has been expert testimony given on the record regarding this matter. Harry Ruppenicker Jr. stated that maybe they shouldn't be allowed to get a CO until the north side bus stop, crosswalk and sidewalk are installed for safety reasons. Chairman Marino stated that the Board cannot make a condition of approval for something that is not located on the applicants property. Harry Ruppenicker Jr. stated that there is a definite safety issue there. There could be legalities of whether the Commission can deny based on this safety issue.

VOTE: Ayes: Tony Marino, Mike Engels, Harry Ruppenicker Jr. and Dwayne Xenelis.
Nays: Lee Archer.

The motion was approved.

At this time, the Commission took a 5 minute break.

Commission Member Lee Archer left the meeting for personal reasons.

Upon a motion by Mike Engels, seconded by Dwayne Xenelis, it was:

VOTED: Unanimously to seat Alternate Member Tom D'Antico for Lee Archer.

2. ZC2014-014 – 1961 Boston Post Road – Special Permit Application for a proposed Multi-Family Residential Building with 24 units (new) and storage building (new) on Parcel #113 of Assessor's Map #180 & Parcel #174 of Assessor's Map#180, with existing structure. (Hearing closed - 65-day decision period ends 8/28/14 – 7/29/14):

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

VOTED: Unanimously to approve, the Special Permit Application of 1961 Boston Post Road LLC in conjunction with Vista Vocational Life Skills Center LLC, c/o Peter Boccarosa – for a Residential Development as a PRDD=Planned Residential Development District (Section 9.10.00), consisting of: an existing structure (1,048 sq. ft.) on the property to be used as office space, a proposed Storage/Bus Stop Building (758 sq. ft.), and a Residential Building of 24 residential units (16 one-bedroom) and (8 two-bedroom) [15,622 sq. ft. (w/covered porch)]. Parking spaces to be constructed will be 28 spaces, with 27 spaces held in reserve (Section 10.06.24), with the following stipulations:

1. Applicant will incorporate the recommendations as cited in Review Letter, dated 5/27/14 by Woodard & Curran.
2. The sidewalk detail shall be provided on the plans as per the Town Engineer's approval, in accordance with D.O.T. standards for sidewalks and ramp detail.
3. A detail of the dumpster enclosure shall be provided on the plans.
4. A stop sign shall be placed at the end of the access drive per the State D.O.T. requirements.
5. The Plans shall incorporate the breakaway details for all signage in the State's Right-of-Way, per D.O.T. requirements.
6. The sidewalk and bus stop requirements to be added to the design plan as per Memorandum from Meg Parulis, dated June 19, 2014.
7. The Stone Trench that is shown on the Drainage Plans designed by Indigo Land Design on plans dated 6/12/14 shall be shown as the same on the Doane-Collins Site Plans.
8. The contours that are shown on the Drainage Plans designed by Indigo Land Design on plans dated 6/12/12 shall be shown as the same on the Doane-Collins Site Plans.
9. The written Parking Block on the upper left corner of the Site Plan shall be revised to corroborate with the parking requirements.
10. The two lots shall be combined with a copy of the Deed provided to the ZEO, prior to the issuance of a building permit.
11. Any proposed changes to the façade shall be reviewed by the ZEO and Land Use Staff, and, if deemed more than a minimal field change, shall require a permit modification review from the Zoning Commission.
12. Plans and calculations prepared by Indigo Land Design shall be stamped and signed by a professional engineer.

13. The Reserved Parking Area, together with the lighting and subsurface drainage associated with reserved parking area as shown in the Conceptual Future Drainage Area Plan, revised to 6/12/14 (Sheet CFDP-1, prepared by Indigo Land Design), shall only be constructed after the Zoning Commission has determined that such parking is necessary.

14. The Final Lighting Plan shall meet the Zoning Regulations, Section 8.22.00.

15. A Building Permit will not be issued until the proposed crosswalk and bus shelter on the north side of Route 1 has been installed or until some other plan to insure the safe crossing of Route 1 has been submitted and approved by the ZEO.

2a. ZC2014-014 – 1961 Boston Post Road – Coastal Area Management (CAM) Application associated with Special Permit ZC2014-014, 1961 Boston Post Road (Map #180/Lots 113 & 174) (65-day application period ends 5/27/14):

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

VOTED: Unanimously to approve the CAM application associated with Application ZC2014-014.

3. ZC2014-010 – 92 Captain’s Drive - Continued Coastal Area Management (CAM) Application for a proposed retaining wall. (65-day application period ends 7-31-14) [possible deliberation and vote]:

Land Surveyor Angus McDonald was present as well as applicant Julia Keith. A letter dated 6/23/14 was received from CT DEEP. Mr. McDonald stated that the home was built in 1964 and there was a dune that was washed away as a result of Storm Sandy. They are proposing to bring the existing wall up 2’ and add 2 wings to stop water from getting in and undermining the home. Mr. McDonald stated that he thinks the DEEP misunderstood the application. They feel that they have met the criteria for item #4 in their letter. They are trying to re-establish the dune for protection. Mike Engels stated that he has concerns that if this wall is built it might negatively affect the neighbors. Mr. McDonald stated that the applicant is willing to add sand if it is requested by the Commission. Chairman Marino said there usually is the possibility that a seawall can affect neighboring properties. Mr. McDonald stated that a Scientist from UConn was hired to study the area and with the findings from that study, it is Mr. McDonalds opinion that this will not affect any of the neighbors. It was suggested that the applicant might want to have DEEP look at the application again to make sure they understand it. Mike Engels asked if we should have our Engineer review this application, as well as the scientific report that was done a few years ago.

Upon a motion by Tony Marino, seconded by Tom D’Antico, it was:

VOTED: Unanimously to table this application so that the Town Engineer can review the all the material submitted and to review the construction sequence as well as the proposed material. The applicant will submit a request for an extension.

Possible deliberation and vote:

1. ZC2014-007 – Proposed Regulation Amendment – Section 5.00.00:

Upon a motion by Dwayne Xenelis, seconded by Tom D’Antico, it was:

VOTED: Unanimously to approve the Regulation Amendments in regards to LiMWA including the acceptance of option “a”.

2. ZC2006-02M – This application was continued.

3. ZC2014-010 – This application was tabled.

4. ZC2014-012 & CAM – This application was continued.

NEW BUSINESS:

RECEIPT OF APPLICATIONS:

1. ZC2014-015 – 170 Fiske Lane – Coastal Area Management (CAM) Application for a proposed single-family house on vacant lot. Map/Lot #182/205 Property owner: Isabella Fusillo (65-day application period ends 9/25/14):

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

VOTED: Unanimously to receive application ZC2014-015 and continue to the August 26, 2014 Regular Meeting to be held at 7:00 p.m. in the Multi-Media Room at the Mulvey Municipal Center.

2. ZC2014-016 – 1201 Boston Post Road – Special Permit Application for a proposed structure to house vehicles as an Accessory Use to the Principal Use – CTC Zone – Map/Lot #176/005 – Property owner: The Dohnna LLC (65-day application period ends 9/25/14) [schedule public hearing]:

And;

2a. ZC2014-016 – 1201 Boston Post Road – Coastal Area Management (CAM) Application associated with Special Permit Application ZC2014-106, Map/Lot #176/005 (65-day application period ends 9/25/14) [schedule Public Hearing]:

Upon a motion by Dwayne Xenelis, seconded by Mike Engels, it was:

VOTED: Unanimously to receive Application ZC2014-016 and CAM and set a Public Hearing for August 26, 2014 at 7:00 p.m. in the Multi-Media Room at the Mulvey Municipal Center.

3. ZC2014-017 – 13 Bluff Street – Coastal Area Management (CAM) Application to raise existing house and relocate within setbacks to meet FEMA Regulations. Map/Lot #196/038, Property owner: Mary Surette (65-day application period ends 9/25/14):

Upon a motion by Harry Ruppenicker Jr., seconded by Mike Engels, it was:

VOTED: Unanimously to receive application ZC2014-017 and continue until August 26, 2014 at 7:00 p.m. in the Multi-Media Room at the Mulvey Municipal Center.

MISCELLANEOUS:

The Town is promoting the CT Solar Challenge which is a big campaign to encourage solar power. We need to look into whether our Regulations deal with this matter. We need to be prepared so the regulations will have to be reviewed. ZEO Nancy Rudek will start researching.

COMMISSION BUSINESS:

1. ZEO Report:

Members of the Council of Beaches have requested that a Blight Ordinance be put in place for the Town. ZEO Rudek distributed information and asked all members to review it and come to next months meeting with comments or recommendations.

2. Miscellaneous Correspondence:

None.

3. Bills:

The following bills were paid out of the Operating Budget:

Branse & Willis, LLC: \$462.50, Invoice #36225

Kathleen Kelemen: \$391.52 June Secretary duties

Hartford Courant: \$195.08, Invoice #1389292

W.B. Mason: \$19.35, Invoice #18990060

Nathan L. Jacobson & Assoc., Inc.: 355.97, Flood reviews – 241 Old Kelsey Point Road and
2044 Boston Post Road

Nancy J. Rudek: \$123.76, Mileage for ZEO, 1/1/14 – 5/25/14

150% Special Funds – Consulting Services:

Upon a motion by Dwayne Xenelis, seconded by Mike Engels, it was:

VOTED: Unanimously to approve the payment of \$2,400.00 to Woodard & Curran out of the 150% fund for the review of 1961 Boston Post Road.

Special Funds – Bond Releases

None.

APPROVAL OF MINUTES – Regular Meeting – June 24, 2014

Upon a motion by Harry Ruppenicker Jr., seconded by Mike Engels, it was:

VOTED: Unanimously to approve the minutes of the Regular Meeting of June 24, 2014, as amended.

ADJOURNMENT:

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

VOTED: Unanimously to adjourn at 10.25 p.m.

Respectfully submitted:

Kathleen H. Kelemen, Secretary

NOTE: All changes indicated in bold, underlined and italicized print.