

**ZONING COMMISSION REGULAR MEETING MINUTES  
AUGUST 26, 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 and ZEO Nancy Rudek.

**CALL TO ORDER:** The meeting was called to order by Chairman Tony Marino at 7:00 p.m.

**ESTABLISHMENT OF QUORUM:**

Chairman Marino stated that all 5 Regular Members are present.

**AGENDA ADDITIONS:**

None.

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

**VOTED:** Unanimously to adjourn the Regular Meeting and open the Public Hearing portion of the meeting at 7:01 p.m.

**PUBLIC HEARINGS:**

**1. 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) (28-day extension period ends 9/4/14) [possible deliberation & vote]:**

Chairman Marino stated that this application has been tabled for 3 months due to non-payment of taxes. Attorney Ed Cassella was present representing the applicant. Plans with a revision date of 3/12/14 and 4/1/14 were submitted. He stated that they are proposing one single family residence and 1 2-family residence, plus a bakery. There are proposing 6 parking spaces for the 3 residential dwellings and 11 for the Bakery. They are proposing a 3' wide sidewalk to match what is already there. The Planning Commission has requested 5' wide sidewalks. For landscaping they have proposed better grading, an apron, the sidewalk and there would be no change in the lighting, with the exception of adding one sconce for the bakery. The Planning Commissions letter dated 5/20/14 was read for the record. Harry Ruppenicker Jr. asked about the location of the dumpster and asked if the garbage removal truck would have enough room to turn around. Attorney Cassella stated that they would have plenty of room to maneuver.

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

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

**VOTED:** Unanimously to close the Public Hearing for the application ZC2006-02M - 1306 Boston Post Road.

**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 was received from the applicant requesting a continuance to the September 23<sup>rd</sup> meeting. All abutting neighboring properties will be notified.

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

**VOTED:** Unanimously to continue application ZC2014-012 and CAM to the September 23, 2014 Meeting at 7:00 p.m. in the Multi-Media Room at the Mulvey Municipal Center.

**3. 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 (35-day public hearing period ends 9/29/14) [possible deliberation and vote]:**

**And**

**3a. ZC2016-016 – 1201 Boston Post Road – Coastal Area Management (CAM) Application associated with Special Application ZC2014-016, Map/Lot 176/005. Property owner: The Dohnna LLC. (35-day public hearing period ends 9/29/14)[possible deliberation and vote]:**

Engineer Seamus Moran was present as well as the applicants. He stated the current conditions of the property and stated that they were proposing a 60'x40' garage on the rear portion of the property that is undeveloped at this time. The garage will house 2 mobile feline vehicles (which have been vandalized in the past). They are proposing to modify the driveway for turning radius of the vehicles. They will put in a new septic for 2 bathrooms and 2 dump sinks. The current septic will remain the same for the existing building. One of the drywells will have to be moved. The stormwater management system is at the rear of the property. There is no new lighting proposed and there will be a 4' fence on 3 sides of the property.

The following received correspondence was received and read for the record:

1. Planning Commission letter dated 8/18/14.
2. Woodard & Curran letter dated 8/26/14.
3. OLISP letter dated 8/26/14

Dwayne Xenelis asked if the proposed garage is bigger than the existing building. Mr. Moran stated that the footprint is larger but actually smaller in square feet. There will only be storage on the second floor of the proposed building.

At this time, Chairman Marino opened the floor to the public to speak for or against the application or to ask questions. There were no members of the public who wished to speak.

Mr. Moran stated that all setbacks requirements have been met. Harry Ruppenicker Jr. asked what the rationale was for only one window. It was stated that it was for security purposes. Dwayne Xenelis asked if it would be appropriate to show the water line on the plans.

The Town Engineers have looked at the Hydrology information and they feel that this will not affect anything. OLISP also requested the installation of silt fencing.

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

**VOTED:** Unanimously to close the Public Hearing for Application ZC2014-016 and CAM for 1201 Boston Post Road.

**4. ZC2014-008 – Proposed Regulation Amendment for Donation Bins – New Section**

**8.26.00 – Town of Westbrook Application. [possible deliberation and vote]:**

Response dated 8/26/14 was received from DEEP and read for the record. Also, comments received from the Town Planner were read for the record. Town Planner Meg Parulis that maybe instead of a Zoning Regulation, it should be a Town Ordinance and combine it with a Blight Ordinance. ZEO Nancy Rudek stated that she went out and looked around the Town and there are 8 sites currently with Donation bins on them, some of them multiple. There was discussion of who will regulate this whether it is a Zoning Regulation or Town Ordinance. Harry Ruppenicker Jr. stated that he does not feel that this would be a lot of extra work for the Zoning Department. Chairman Marino stated that he feels that there is no time for current staff to take on any more enforcement. Town Planner Meg Parulis stated that she feels this subject needs further review.

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

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

**VOTED:** Unanimously to close the Public Hearing on Application ZC2014-008 – Town of Westbrook.

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

**VOTED:** Unanimously to close the Public Hearing portion of the meeting and reconvene the Regular Meeting at 8:01 p.m.

**REGULAR MEETING:**

**Possible deliberation and vote of Public Hearings:**

**1. ZC2014-2M – 1306 Boston Post Road:**

There was discussion of tabling a decision for this application until payment of taxes are made. ZEO Rudek was asked to add a stipulation to the Draft Resolution that 5' sidewalks be installed for the entire width of the property.

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

**VOTED:** Unanimously to table Application ZC2014-2M until the September 23, 2014 Meeting to be held at 7:00 p.m. in the Multi-Media Room at the Theresa Mulvey Municipal Center.

**2. ZC2014-012 & CAM – 36 Westbrook Place:**

The Public Hearing for this application was continued to September 23, 2014.

**3. ZC2014-016 & CAM – 1201 Boston Post Road:**

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

**VOTED:** Unanimously to approve the Special Permit Application for 1201 Boston Post Road, to construct a new 60' x 40' garage structure at the rear of the property to house existing veterinary mobile care units. This is an accessory use to the existing primary use for office use in the existing building. Upper story of the garage to be used for storage only. No site lighting is proposed. This approval is granted subject to conformance with referenced plans (as may be modified by the Commission) and the following conditions:

1. The seconded story of the building be used for storage only.
2. Revised drawings showing the water line are to be submitted.
3. Silt fencing is installed as recommended by DEEP.
4. The Retention Basin is to be installed as designed by the applicants Engineer.

It is further:

**VOTED:** Unanimously to approve, The Coastal Area Management Application (ZC2014-016, date-stamped 7-15-14) associated with this Special Permit and with recommendations by DEEP/OLISP, dated 8/26/14.

**4. ZC2014-008 – Town of Westbrook – Donation Bins:**

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

**VOTED:** Unanimously to approve the proposed Regulation Amendment to create new Section 8.26.00, as submitted with the following changes:

To remove 8.26.01h and for 8.26.01i to change to 8.26.01h and to change the word “of” to “or” that is location in the first paragraph under 8.26.01. The Effective date of the Regulation will be 9/18/14.

**NEW BUSINESS:**

**RECEIPT OF APPLICATIONS:**

**1. ZC2014-018 – Pilot’s Point Marina – Map/Lots #184/130 & 131 – Site Plan Application for re-grading dredge spoils to create perimeter berms around boat storage area under Section 11.42.00. Property owner: Pilot’s Point Marina (65-day application period ends 10/30/14) [possible deliberation & vote]:**

Stuart Fairbanks of Angus McDonald and Associates was present representing the applicant. The application is really for work that has already been done. Mr. Fairbanks submitted aerial pictures of what it looked like in January of 2008. This area has always been a general storage area. It was re-zoned to a Commercial Boating District sometime last year. Also submitted were aerial views of what the property looks like now. The berms were placed around the perimeter and there is crushed stone in the middle. There is a slight slope from north to south. They left an area of 30' to 50' from tidal wetlands and there is a little depression where water catches so nothing leaves the site. There has never been any run-off from the property. They closed off the opening that you could see along Route 1 so that it created a screen from the stuff that was stored on the property.

Harry Ruppenicker Jr. asked if there was a Wetlands violation on the property. Dwayne Xenelis pointed out that all of this work should have gone through the permit process. ZEO Nancy Rudek stated that this has not gone thru Coastal or Wetlands for approval. There is also concern because the berm is sitting on top of the septic system and is compressing all the soils on top of it. It was

stated that this whole project needs some serious review. Chairman Marino asked what is growing in the area at this time. Mr. Fairbanks stated that there is a mix of grass and a lot of other stuff that he can't identify himself. The berms will probably have to be moved. There was discussion whether this should be reviewed by the Town Engineer. Again, Dwayne Xenelis stated that this needs to follow the process which should have been done prior to any work being done. Chairman Marino stated that the berm is now located on the property that is supposed to be the development for the apartments and Pilot's Point won't own the property anymore. He feels that this application should be tabled to establish a price for the Town Engineer to review and have the applicant agree to pay for the services. The septic should also be reviewed by the Town Engineer. Stabilization, vegetation and a CAM approval is required.

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

**VOTED:** Unanimously to table application ZC2014-018 – Pilot's Point Marina until a cost is gotten from the Town Engineer to review the application, including the septic and the applicant agrees to pay for these services.

**3. ZC2014-020 – 110 Boston Post Road (Off The Hook) – Site Plan Application to allow an accessory use (outside entertainment) to the primary use (restaurant). (65-day application period ends 10/30/14) [possible deliberation and vote]:**

Applicant Andrew Testo, Permittee of Off the Hook was present. Chairman Marino stated that Off The Hook started having outdoor entertainment, which they did not get a permit for. The application is really after the fact, but they are looking to get approved for an accessory use to the primary use in order to continue having outside entertainment. Mr. Testo stated that other restaurants in town had outside entertainment so he just started having it too. He did not realize that he needed to get a permit for this. A petition was received from town residents who are opposed to the application because the music is so loud and sometime the bands do not stop playing at 10:00. Mr. Testo stated that he never meant to offend anyone.

Rob & Wendy Russell of 40 Uncas Road East stated the reasons for the petition is that the music is very loud, the bands don't stop at 10:00 as they're supposed to. Numerous phone calls were made to the establishment by surrounding residents with no results and the First Selectman has sent 2 letters regarding the matter and there was no response. The only results are when the police are called. Mr. Testo stated that he was not aware of any phone calls or letters from the Town. He will be happy to turn the volume down and make sure the music stops at 10:00.

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

**VOTED:** Unanimously to approve the site plan application of 110 Boston Post Road for an accessory use (Section 4.113.02(f) to the primary use to allow Outdoor Entertainment on the outside deck on Friday and Saturdays from 6:00 p.m. to 10:00 p.m. and on Sundays until 8:00 p.m. through mid-September. The current seating of 12 tables (4 seats), will be reduced to 9 tables for outside entertainment.

**OLD BUSINESS:**

**1. ZC2014-010 – 92 Captains Drive – Continued Coastal Area Management (CAM) Application for a proposed retaining wall. Property owner: Julia Keith (65-day application period ends 7/31/14) (65-day extension ends 10/4/14):**

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

**VOTED:** Unanimously to table Application ZC2014-010 – 92 Captains Drive to the September 23, 2104 Meeting to be held at 7:00 p.m. in the Multi-Media Room at the Mulvey Municipal Center.

**2. ZC2014-015 – 170 Fiske Lane – Continued 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) [possible deliberation and vote]:**

Architect Thomas Elliot was present representing the applicant. Mr. Elliott referred to the DEEP letter dated 8/25/14 and stated that he does not like the letter. The applicant has gone above and beyond the FEMA Regulations. There was concern of the location to a seawall. It was stated that there used to be a house and septic on this lot. The applicant has not proposed to make any changes to the existing seawall as indicated in DEEP's letter. If for any reason the seawall were damaged, the property owner would apply for an application to fix it. Wall waste water will flow to an environmental system and nothing will flow toward Long Island Sound. They are proposing an Engineered Designed System and will have a full 100% reserve system which will be located 130' from the sensitive area. A stormwater management system will be 50' from the septic system. They have complied with every regulation of the Public Health Code

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

**VOTED:** Unanimously to approve Application ZC2014-015 – 170 Fiske Lane for Coastal Area Management (CAM) to construct a new single-family residential dwelling on vacant lot to elevation 13.8. Property is in an AE-12 Flood Hazard Area and includes storm-water measures involving roof leaders to discharge to underground infiltrators.

**3. ZC2014-017 – 13 Bluff Street – Continued 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) [possible deliberation and vote]:**

Engineer Joe Wren was present representing the applicant. He stated that all requirements have been met. They are proposing to lift the existing house and put it on piers, remove the detached garage and replace a portion of the paved driveway with crushed zone. This is a VE13 Flood Zone.

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

**VOTED:** Unanimously to approve Application ZX2014-017 CAM – 13 Bluff Street to raise an existing single-family 5-bedroom residential dwelling to elevation 15.0. The project includes a first floor addition with carport underneath (north side), removal of an existing deck and construction of a new deck (south side) and stairways; and to remove an existing paved driveway, to be replaced with a gravel driveway, accessing from Bluff Street.

**RECEIPT OF APPLICATIONS:**

**2. ZC2014-019 – Proposed Regulation Amendment for Solar Energy Projects – New Section 8.27.00 – Town of Westbrook Application. [Set Public Hearing date]:**

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

**VOTED:** Unanimously to received Application ZC2014-019 – Town of Westbrook and to set a Public Hearing for October 28, 2014 at 7:00 p.m. in the Multi-Media Room at the Mulvey Municipal Center.

All members were asked to review the material distributed and contact ZEO Nancy Rudek with any comments, questions or recommendations.

**MISCELLANEOUS:**

**1. Blight Ordinance for discussion:**

The Board of Selectmen are considering creating a Blight Ordinance for the Town. They have distributed Clinton's Blight Ordinance and they are looking for input from Land Use and Board and Commissions. So if you have any comments, questions or recommendations, please let XEO Nancy Rudek know.

**2. Transcriptions of tapes:**

Since the application for 1961 Boston Post Road is being appealed, transcripts of 4 meetings need to be down. Secretary Kelemen is willing to transcribe the tapes at her normal hourly wage, without going into overtime pay.

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

**VOTED:** Unanimously to approve Secretary Kathleen Kelemen to transcribe the meeting tapes for April, May, June and July of 2014 in regards to the application for 1961 Boston Post Road.

**3. 92 Captains Drive:**

ZEO Nancy Rudek stated that the Commission will probably get revised plans and she would like the input from the Commission if the revised plans should be sent to Jennifer O'Donnell who specializes in coastal work.

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

**VOTED:** Unanimously that if revised plans are received for Application ZC2014-010 – 92 Captains Drive, the plans will be sent to Jennifer O'Donnell, Coastal Engineer for review.

**COMMISSION BUSINESS:**

**1. ZEO Report:**

Distributed and discussed.

ZEO Nancy Rudek was asked to get a legal opinion about illegal accessory apartments and would they be grandfathered if it has been in existence for a long period of time.

**2. Miscellaneous Correspondence:**

1. Copy of a letter dated September 2014 from First Selectman Noel Bishop to Westbrook Property Owners regarding the Westbrook Solar Challenge Kick-off Workshop to be held October 7<sup>th</sup> from 7 p.m. to 9 p.m.
2. Copy of current Fiscal Year Zoning Commission Budget.

**3. Bills:**

The following bills were paid out of the Operating Budget:

Branse & Willis, LLC: \$148.00, Invoice #36398

Kathleen Kelemen: \$189.79 July Secretary duties

Hartford Courant: \$226-76, Invoice #1432090

Annual Conference – CT Assoc of Flood Mgrs: \$65.00 (10/29/14–Water’s Edge–ZEO to attend)  
Nathan L. Jacobson & Assoc., Inc.: \$398.05 (Flood reviews/General Consult & 170 Fiske Lane)

**150% Special Funds – Consulting Services:**

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

**VOTED:** Unanimously to approve the payment of \$4,218.00 to Branse & Willis, LLS for review of 1961 Boston Post Road.

**Special Funds – Bond Releases**

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

**VOTED:** Unanimously to approve the release of \$5000.00 Performance Bond to Richard Vicino of Hill Farm.

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

**VOTED:** Unanimously to approve the release of \$1,000.00 Driveway Apron Bond for 329 Toby Hill Road.

**APPROVAL OF MINUTES – Regular Meeting – July 22, 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 July 22, 2014, as amended.

**ADJOURNMENT:**

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

**VOTED:** Unanimously to adjourn at 9:28 p.m.

Respectfully submitted:

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Kathleen H. Kelemen, Secretary