

ZONING COMMISSION REGULAR MEETING MINUTES

October 25, 2011

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

Members Present: Chairman Tony Marino (@7:37 p.m.), Regular Member Harry Ruppenicker Jr., Regular Member Lee Archer, Regular Member Tom Belval, Alternate Member Dwayne Xenelis, Alternate Member Tom D'Antico and ZEO Nancy Rudek.

Also Present: Town Planner Meg Parulis, Town Engineer Mark Pereira, Attorney Brian Dumeer, Engineer Stu Fairbanks, Engineer Fern Tremblay, Architect Craig Laliberte and Jack Colody.

CALL TO ORDER: The meeting was called to order by Acting Chairman Harry Ruppenicker Jr. at 7:02 p.m.

ESTABLISHMENT OF QUORUM: Acting Chairman Ruppenicker seated Alternate Dwayne Xenelis as a voting member sitting for Tony Marino and also seated Alternate Member Tom D'Antico for the vacant seat.

AGENDA ADDITIONS: None.

PUBLIC HEARING(s):

1. **Z2011-08 – Duck Island Landing – Special Permit Application for a proposed development of 3 residential apartment buildings with 13 units (32 bedrooms) and associated site improvements on a 1.5 acre parcel – south side of Boston Post Road, NCD Zone District, Flood Zone AE, Property owned by Pilots Point Marina, Inc. (Property ID#188/Lot #020) [Postponed commencement of hearing to 9/27/11 / 35-day public hearing period ends 11/1/12 and]**
 - 1a. **Z2011—08a – Coastal Area Management Application (CAM) associated with Special Permit Z2011-08:**
2. **Z2011-09 – Marina Way Landing – Special Permit Application for a proposed development of 3 residential apartment buildings with 14 units (33 bedrooms) and associated site improvements on a 2.9 acre parcel – south side of Boston Post Road, NCD Zone District, Flood Zone AE, Property owned by Pilots Point Marina, Inc. (Property ID#188/Lot #020) [Postponed commencement of hearing to 9/27/11 / 35-day public hearing period ends 11/01/11] and**
 - 2a. **Z2011—09a – Coastal Area Management Application (CAM) associated with Special Permit Z2011-09:**

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

VOTED: Unanimously to open both Public Hearings at the 7:05 p.m.

Engineer Stu Fairbanks, stated that the Lighting plans and storm water information were sent to Woodard & Curran for review after the September meeting. Mr. Fairbanks also submitted the following for the record: Sanitation information for both projects

Natural Diversity Data Base

Declaration of Easement

Storm water Easement

Statement of Use

Drainage Easement

Proof of Consistency with the Westbrook POCD

Proof of trolley easements extinguished

Proof of walking easements extinguished
Copies of all deeds for Easements.

Mr. Fairbanks stated that they have revised the plans to keep ahead of the proposed FEMA regulations and incorporated all concerns from the last public hearing. They included an overall aerial photo of the property, changed the width of the roads. They stated that they are willing to incorporate a 100' fence on either side of the Walsh property if the Commission feels that it is necessary, and/or planting white spruces as a buffer. They added an additional dumpster and are willing to add another one if the Commission wants. They added additional grading for flood elevation and added notes for the total impervious surfaces for each site on the plans. Acting Chairman Ruppenicker read the following correspondence that was received into the record:

1. Letter dated 10/18/11 from University of Connecticut State Museum of Natural History, Archaeology Center.
2. Letter dated 10/25/11 from Westbrook Planning Commission in regards to their concerns and recommendations.
3. Letter dated 10/23/11 from Westbrook Conservation Commission in regards to their concerns for this project.

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

1. Barbara Edelsen - 3 Mels Road: Ms. Edelsen questioned if the Right of Way being wxtinguised will be place in the land records.

At 7:37 p.m. Chairman Tony Marino arrived, but asked Acting Chairman Ruppenicker to continue through the Public Hearing.

2. Connie Lecours – 3 Lynne Avenue Extension: Stated that she is concerned about trespassers and would like to see the fence extended.
3. Barbara Edelsen: Would like to know how they can put up a fence where a right of way exists (it is in the file).
4. John Walsh – Boston Post Road: Stated that his property has been in his family for 100 years. He feels that the developers reputation is horrendous and the salt marsh is always flooded. He would like to know if the applicant will bond the development to ensure there will be no flooding. He feels that there will be a lot of trespassing onto Mel's Road and feels that it is the developers responsibility to prevent the trespassing since they have created a hazard. Mr. Walsh stated that the proposed dumpster is abutting his property. (The applicant stated they would move the location of the dumpster). Mr. Walsh stated that because they have proposed to raise the elevation, all the water will go onto his property. (Mr. Fairbanks stated that all water will go west, not east and that Mr. Walsh's property will actually drain faster when the development is done). Mr. Walsh's stated that he does not want the developments sewage in his basement. He also stated that he wants the right of way out to the road extinguished. (Mr. Fairbanks stated that they had already agreed to this last month).
5. Connie Lecours – Stated she is concerned about any blasting because her home is built on ledge and when she built her home, the town would not allow her to blast. (Mr. Fairbanks stated that if blasting is needed, a pre-blast survey would be done and everything would be documented).

6. Barbara Edelsen – Questioned what type of apartments they will be. Will they be furnished or unfurnished or will they be a type of resort. (Tony Marino stated that this will not be a resort of any kind. The apartments cannot be rented nightly, weekends or weekly). (Mr. Fairbanks stated that they will not be furnished). Ms. Edelsen stated that she thinks they will probably be high end apartments and that they will eventually turn into condos. She stated that she feels that an apartment complex would be a detriment, not an enhancement to the area.
7. Ellen Lepac stated that her house is also built on ledge. She asked how high the roofs would be. (Mr. Fairbanks stated 33’ 2” which conforms to the regulations.
8. Barbara Edelsen stated that she is concerned about noise, with approximately 100 people living in the apartments, it could get very noisy. It was stated that there is a noise ordinance in Town and would be enforced by the police.
9. John Walsh stated that he feels this development will lower the value of surround properties and wants to know what the developer will do to make the surrounding properties whole.

Attorney Dumeer stated that they just submitted the lighting plan and has not been reviewed yet so if there are any comments, they would like to be able to respond. The Commission feels that there are still some outstanding issues regarding these applications.

Upon a motion by Harry Ruppenicker Jr., seconded by Lee Archer, it was:
VOTED: Unanimously to continue the Public Hearings on these applications to November 22, 2011 at 7:00 p.m.

A letter requesting an extension was submitted by the applicant.

At this time, Acting Chairman Ruppenicker stepped down as Acting Chairman and returned the seat to Chairman Tony Marino.

Public Hearings Continued:

3. Zoning Regulations – Public Hearing on the proposed Amendments to Sections 5.00.00 (Flood Regs), Section 12.20.01 (Flood Variances), Section 2.10.07 (Non-conforming Structures) and Section 2.40.87 (Definitions) – (possible deliberation and vote)

Town Planner Meg Parulis was present and gave clarification of the existing regulations and stated that proposed changes are based on FEMA model regulations. They have been reviewed by the State Flood Coordinator. Ms Parulis gave a history of the proposed regulations and stated that these changes were brought about after the flood of 1982. The Commission discussed all the proposed changes to the regulations.

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

1. Joe Boccia – Stated that with the existing situation he can’t fix his house from the damage from Hurricane Irene. He feels that the regulations need to be more lenient.

The following correspondence was received and entered into the record:

1. Letter dated 10/25/11 from the Planning Commission. (Exhibit 7)
2. Letter dated 10/24/11 from CT DEEP. (Exhibit 6)
3. E-mail dated 9/26/11 from Diane Ifkovic, State of CT DEEP. (Exhibit 5)
4. Letter dated 10/5/11 from CRERPA. (Exhibit 8)
5. Memo dated 10/5/11 from Mary-Beth Hart, CT DEEP OLISP. (Exhibit 9)

There are 18 exhibits total including the model regulations.

Upon a motion by Lee Archer, seconded by Tom Belval, it was:

VOTED: Unanimously to close the Public Hearing on this application.

The Public Hearing portion of the meeting ended at 9:21 p.m.

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

VOTED: To approve the following amendments to the Zoning Regulations: Section 5.00.00 as noted in Exhibit 1, with the following deletions: Delete last sentence in Section 5.16.03(d) and delete last sentence in Section 5.17.11. To approve amendments to existing Sections 2.10.06 and 2.10.07, as submitted in Exhibit 2. To approve amendments to existing Section 2.40.87, as submitted in Exhibit 3. To approve amendment to Section 12.20.01 (added new paragraph c, as submitted in Exhibit 4. All amendments effective November 15, 2011.

Vote: Ayes: Tony Marino, Tom Belval, Harry Ruppenicker Jr., Tom D'Antico and Lee Archer. Nays: Dwayne Xenelis.

NEW BUSINESS:

RECEIPT OF APPLICATIONS:

1. **Z2011-11 – 25 Chapman Avenue – Coastal Area Management (CAM) for a proposed terraced wall addition to an existing sea wall, subsequent to an emergency repair to existing footprint of wall, damage by storm. (65-day application period ends 12/29/11)**

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

VOTED: Unanimously to accept application Z2011-11 and continue to the November Meeting.

OLD BUSINESS:

1. **Z2011-07 – 60 Chapman Beach Road – Continued Coastal Area Management Application (CAM) for the proposed construction of a new single family residential house on a vacant lot of record. (Property ID#180/018) (65-day application period, with 54-days total extensions granted, valid through 10/25/11):**

Applicant Bryan Coppes added a storm water detention basin and submitted the information to Mary-Beth Hart and she submitted an e-mail stating that the information provided is consistent with the applicable policies and standards of the Connecticut Coastal Management Act.

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

VOTED: Unanimously to approve application Z2011-07.

2. **Z0908M – 1525 Boston Post Road (Water's Edge) – Continued Site Plan Application for modification to an accessory use involving reconfiguration of existing swimming pool. (65-day application period ends 12/01/11) and**

2a. Z0908a – 1525 Boston Post Road (Water’s Edge) – Continued CAM Application for reconfiguration of a swimming pool in the Coastal Management Area. (65-day application period ends 12/01/11)

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

VOTED: Unanimously to table this application pending engineering review sent to Tom Metcalfe, PE, because of possible conflict with Woodard & Curran.

MISCELLANEOUS:

1. Zoning Meeting Schedule for 2012:

Upon a motion by Tom Belval, seconded by Harry Ruppenicker Jr., it was: Approve the 2012 Meeting Schedule as submitted.

2. Zoning Fee Schedule: Review of Amended Fee’s for Flood Review Applications:

Upon a motion by Harry Ruppenicker Jr., seconded by Lee Archer, it was: VOTED: Unanimously to forward the proposed amended fees for Flood Review Applications to a Town Meeting for approval.

3. Annual Report for 7/1/10 – 6/30/11 (due November 14th): ZEO Nancy Rudek stated that she is still working on this report.

COMMISSION BUSINESS

1. ZEO Report: Distributed and discussed.

2. Miscellaneous Correspondence:

1. Notification of Community & Natural Resources Planning Program Fall 2011 Workshops.
2. Copy of IWWC Regular Meeting minutes 8/2/11.
3. Copy of 9/23/11 letter from CT DEEP to ZEO Nancy Rudek regarding “No Local Hazard Mitigation Plan”.

3. Bills: Zoning Budget Report: 2011/2012

The following bills were paid:

- Branse, Willis & Knapp: **\$363.00** (General Legal Invoice (#28839, 28840, 28841)
- Woodard & Curran: **\$870.00** (Review for Pilot’s Point Access Rd, Inv. #87034)
- Nathan L. Jacobson & Assoc. **\$447.19** (25 Menunketesuck Rd, 54 Captains Dr, Inv #74675 & 74676)
- Lisa DeMaria: **\$34.96** (Mileage 10/5/11-CAZEO Meeting with ZEO)

150% Special Funds-Consulting Services

None.

4. Enforcement:

1. 756 Boston Post Road.
2. North side of South Main Street.
3. 106 South Main Street.
4. 850 West Pond Meadow Road.
5. 779 Boston Post Road.
6. 704 Boston Post Road.
7. 433 Boston Post Road.
8. Property across from Westbrook Hunt Club.

APPROVAL OF MINUTES: September 27, 2011

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

VOTED: Unanimously to approve the minutes of the Regular Meeting for September 27, 2011, as Submitted.

ADJOURNMENT

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

VOTED: Unanimously to adjourn this Regular Meeting at 9:52 a.m.

Respectfully submitted:

Kathleen H. Kelemen