

**ZONING COMMISSION REGULAR MEETING MINUTES
OCTOBER 27, 2015
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 Linda Nolf and ZEO Nancy Rudek.

Also Present: Town Planner Meg Parulis

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:

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

VOTED: Unanimously to add “ZC2015-17 – 13 Boston Post Road – Site Plan Review for Change of Use from a nail salon to a bakery – Applicant Lane Xenelis” under Receipt of Applications #2.

PUBLIC HEARING(s):

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

VOTED: Unanimously to recess the Regular Meeting and to open the Public Hearing portion of the meeting at 7:02 p.m.

1. ZC2014-015 – Continued Hearing for Text Amendment for proposed changes to fence definition. Town of Westbrook application (35-day public hearing period ends 10/27/15):

Town Planner Meg Parulis stated that the proposed text amendments were created with the intention of clarifying some issue and to indoctrinate some existing issues. They are proposing to change the “not to exceed height” to 78” from 72” because the post is above the panel and the 3-4” on the bottom of the fence needs to be taken into consideration. There was discussion regarding possible site issues for corner lots and roads. This text amendment would only affect going forward, not anything that is already existing.

A letter dated 10/19/15 was received from CT DEEP and they recommended that the following language be added “unless the fence or wall constitutes a shoreline flood and erosion control structure as defined by CGS Section 22a-109(c) or is proposed within 50 of a tidal wetland”. The Commission agreed with the suggestion with the exception of “or is proposed within 50 feet of a tidal wetland”.

A letter dated 10/23/15 was received from the Westbrook Planning Commission. They recommend adding “those fences, including deer fences”. The Commission agreed with their recommendation.

At this time, Chairman Marino opened the floor to the public to speak for or against the application or to just ask questions. The following members of the public spoke:

1. John Stranieri – 257 Seaside Avenue: Stated that he feels that if you add another 2’ to a fence, now it becomes an 8’ fence and this is a huge problem. A slope needs to be measured prior to the purchase of a fence because being that high will be a problem with high winds, blocking views, etc. There will be major site line issues because the fences are allowed in the town right of way. They should be 18’ to 20’ from a road or a sidewalk. Someone is going to build a custom fence at 78” and then it will be much higher because it doesn’t go right down to the ground. If anything the Commission should make the maximum height lower not higher.
2. Rick Fitzgerald (representing his mother – Marian Fitzgerald: Stated that he agrees that the measurement should be from the ground up.
3. John Hall – East Pond Meadow Road: Stated that his land is used for agricultural purposes and uses fencing for cows and horses. He has over 200 acres and miles and miles of fencing on his property. He also has barbed wire fencing. He would like to see agricultural land exempted from this amendment.
4. Town Planner Meg Parulis stated that it was their intention to exempt agricultural so she will double check all the wording to make sure this is included.
5. John Hall asked that it be verified before being voted on.
6. Rick Fitzgerald – 255 Seaside Avenue: Stated that he feels that the “visibility” wording is very confusing and not very understandable. The wording addresses intersections and not driveways.
7. John Stranieri – 257 Seaside Avenue: The amendment should state that any fence should be 18’-20’ back from the road.
8. Town Planner Meg Parulis stated that she will re-look at the wording for “visibility”.
9. Commission Member Harry Ruppenicker Jr. stated that barbed wire normally aren’t used for gardens.
10. John Hall stated that he feels barbed wire should not be banned, but understands that it’s not needed for gardens.
11. Commission Chairman Tony Marino stated that he has a concern of limiting the panel to 6’.
12. Town Planner Meg Parulis stated that maybe need graphics.
13. Marian Fitzgerald – 255 Seaside Avenue: Asked what if it’s a picket fence and you can see through it.
14. Elizabeth Stranieri – 257 Seaside Avenue: You can’t see through them.
15. John Stranieri – 257 Seaside Avenue: A picket fence is a solid fence.
16. Brian Gemmie (sp?) – No address: Asked if the regulation would be retroactive.
17. Commission Chairman Tony Marino: No.
18. Brian Gemmie: Stated he feels it should be panel vs post. You need to define “post”.
19. Commission Member Dwayne Xenelis: Asked if pool fences were part of this regulation.
20. Town Planner Meg Parulis: Pool fences are regulated by the State.

Chairman Marino stated that there are some issues to be looked into prior to finalizing this amendment. They are: Panels vs. posts, defining posts, site lines, how far from property or road it should be, ornamental additions should be defined, the agricultural issue. We should look at other towns and see where they measure from.

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

VOTED: Unanimously to continue the Public Hearing for ZC2014-15 to November 24, 2015 at 7:00 p.m. in the Multi-Media Room at the Mulvey Municipal Center.

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

VOTED: Unanimously to close the Public Hearing portion of the meeting and re-convene the Regular Meeting portion of the meeting at 7:47 p.m.

REGULAR MEETING:

Possible deliberation and vote of Public Hearings:

1. ZC2015-015:

The Public Hearing was continued to the November 24, 2015 meeting.

RECEIPT OF APPLICATIONS:

1. **ZC2015-016 – 7 Pequot Park Rd – (Map/Lot 158/023): Proposed Special Permit Application for the construction of 3 commercial buildings for flexible small business spaces. Applicant/Owner: David Milano, Milano Development Corp. (65-day application period ends 12/31/15) [Set Public Hearing Date]:**

There was no one present for this application.

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

VOTED: Unanimously to receive Application ZC2015-016 and to schedule a Public Hearing for November 24, 2015 at 7:00 p.m. in the Multi-Media Room at the Mulvey Municipal Center.

At this time, Commission Member Dwayne Xenelis recused himself from the meeting.

2. **ZC2015-17 – 13 Boston Post Road – Site Plan Review for Change of Use from a nail salon to a bakery – Applicant Lane Xenelis:**

Mark Israel of Madison is trying to open a bakery in this building that used to be a nail spa. Applicant Layne Xenelis was also present. The state would regulate the license for a bakery so the Zoning Application is separate. It will be a retail business only and there will not be any eat-in facilities. He will have one table and a few chairs for customers to sit at while waiting for their order. A dumpster probably not be needed. They will only use roll out cans. Chairman Marino stated that he is concerned about this becoming a restaurant if there are any tables or chairs. Mr. Israel stated that that is not his plan at all. Harry Ruppenicker Jr. stated that he is concerned that a dumpster will be needed and doesn't feel there is a spot for it on the property where it can be enclosed. This is a site plan application. Chairman Marin asked how many parking spaces are needed. It was stated that the building is 1240 square feet.

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

VOTED: Unanimously (4 voting members) to approve application ZC2015-17 – 13 Boston Post Road for a bakery retail use only with the following conditions:

1. The parking calculations are reviewed by staff and found to be accurate.
2. No exterior trash receptacles will be allowed except roll-out containers on trash pick-up days only unless the applicant receives approval from the ZEO for a revised site plan
3. The Statement of Use will be changed affirming that there will be no eat-in service for this facility.

At this time, Commission Member Dwayne Xenelis returned to the meeting.

OLD BUSINESS:

None.

MISCELLANEOUS:

1. Duck Island/Marina Way – Discussion of changes to architectural features on previously approved Spec. Permit:

A meeting was held today with Chairman Tony Marino, ZEO Nancy Rudek, Town Planner Meg Parulis and Planning Commission Chairman Marilyn Ozols. It appears that the plans submitted by the applicant for sign off were signed off by the Land Use Department, but the plans were not the same as those that were originally approved. They will need to discuss the items that can be corrected and how the applicant is going to handle that. They will have to come before the Zoning Commission to discuss the matter. ZEO Nancy Rudek will be contacting the Commissions Attorney regarding the matter.

2. Meeting Schedule – 2016:

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

VOTED: Unanimously to approve the 2016 Meeting Schedule as presented.

COMMISSION BUSINESS:

1. ZEO Report:

Distributed and discussed.

2. Bills:

The following bills were paid out of the Operating Budget:

Branse & Willis, LLC: \$462.50 for General Legal (Inv#39238, #39240)

Nancy Rudek: \$95.47 – Mileage reimbursement

CAFM: \$65.00 – Flood Conference

Nathan L. Jacobson & Assoc., Inc.: \$1,122.44 (Flood Reviews – 164 Captains, 15 Lynne Road, 61 Second Avenue)

150% Special Funds – Consulting Services:

None.

Special Funds – Bond Releases

None.

APPROVAL OF MINUTES – Regular Meeting – September 22, 2015

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

VOTED: Unanimously to approve the minutes of the Regular Meeting of September 22, 2015, as amended.

ADJOURNMENT:

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

VOTED: Unanimously to adjourn at 8:31 p.m.

Respectfully submitted:

Kathleen H. Kelemen, Secretary