

**ZONING COMMISSION REGULAR MEETING MINUTES**  
**December 27, 2011**  
**7:00 PM MULVEY MUNICIPAL CENTER, MULTI-MEDIA ROOM**

**Members Present:** Chairman Tony Marino, Regular Member Harry Ruppenicker Jr., Regular Member Tom Belval, Regular Member Dwayne Xenelis and ZEO Nancy Rudek.

**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 Regular Members present represent a quorum.

**AGENDA ADDITIONS:** None.

**PUBLIC HEARING(s):**

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

**VOTED:** Unanimously to recess the Regular Meeting and open the Public Hearing portion of the Meeting.

1. **Z2011-15 – 279 Essex Road – Public Hearing on the Special Permit Application for proposed residential mult-family relating to the renovation of existing structure (former Daycare) into four two-bedroom apartments. Property owned by Bogaert Management, LLC. MDR Zone district, .87 acres (Property ID #Map/Lot 166/014) (35-day public hearing period ends 1/31/12) [possible deliberation & vote]**

Engineer Matthew White was present as well as applicant John Bogaert. Plans revised to 12/20/11 were submitted. Mr. White stated that the parcel is .87 acres and is the site of a former daycare center. They are proposing to turn the building into four two-bedroom apartments. The property is located in the MDR Zone and this proposal is an allowed use with a Special Permit. There are currently 16 parking spaces, but only 8 are needed. They are proposing that 4 of the spaces be removed and the remaining 12 spaces would be re-stripped. There will be grading modifications (lower) on the north and south side of the building to allow windows in the lower units. They may be proposing 2 patios for the lower units also. They are proposing a gravity septic system for the 2 lower units and the existing septic will be used for the upstairs units. Landscaping: right now there are a lot of invasive plants along the cemetery border which they propose to remove and replace it with a buffer plan. As far as lighting is concerned, the existing lighting will remain as it is now. They are proposing 2 additional bollard lights along the walkways to the lower units, as well as sconce lighting. The existing spotlight on the back of the building will be removed. The applicant did receive favorable comments from the Planning Commission regarding the fact that they will be removing 10% of the impervious surface for the parking area which will reduce the percentage of coverage to a total of 25% and will decrease the amount of run-off. Harry Ruppenicker Jr. recommended adding a little

buffer to the rear of the building on the Western side. The applicant stated that they would be willing to do this. A possible stipulation of approval, if approved, would be that the applicant must submit a landscaping plan to the ZEO for approval.

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

1. Phil Bassett, Chairman of the Cemetery Association stated that his Board is concerned about the invasive vegetation encroaching onto the Cemetery property. He had previously requested to meet with Mr. Bogaert regarding this matter, but never received a response. They would like to see the Cemetery side cleared and have a new buffer put in place. He is also concerned about the maintenance of the buffer as to whether it will be self maintaining, will it have to be maintained and who will do the maintaining. They are especially concerned about possible breakage to the old Cemetery Stones. Otherwise, the Board is fine with the proposal  
Matthew White stated that the applicant has already incorporated information regarding the invasive plants as part of Note #7 on the plans. Mr. White further stated that the invasive plants will be removed, but possibly not everything if they are viable to keep.
2. Kathy and Rich Tsou stated that they are concerned about the proposal affecting property values to neighboring properties. Previously when it was a day care, there was only activity during the daytime hours and now there will be activity all the time. This area will no longer be a "quiet little corner". Currently, the storm water run-off runs onto their property because of improper grading. They had to, at their cost, install an apron and had to build up the level of their yard to prevent the run-off from entering their property. They tried working with the applicant, but never received any satisfaction regarding the problems. Therefore, they are concerned about any new run-off going on to their property. It would be nice to have the whole thing corrected during this process.  
Matthew White stated that the applicant will be helping the situation by removing some of the impervious surface. They will remove the pavement and re-grade the area. Mr. White further stated that although the activity won't be limited to day time, there will be a lot less traffic in and out of the site  
Mrs. Tsou stated that there is an issue with snow removal and where the snow is placed. When everything starts melting and refreezes at night, their driveway is all ice and is a safety issue.  
Mr. White stated that the applicant will work this out. Mr. Bogaert was not previously managing the property, but will be now.  
Mrs. Tsou stated that they would like the invasive plants removed by their property and to have a better buffer installed.  
Mr. White stated that the applicant has already agreed to a new buffer.

At this time, Chairman Marino read for the record the following correspondence that was received regarding this application:

1. IWWC letter dated 12/7/11
2. Planning Commission letter dated 12/15/11
3. Conservation Commission letter dated 12/27/11

Upon a motion by Harry Ruppenicker Jr., seconded by Dwayne Xenelis, it was:  
**VOTED:** Unanimously to close the Public Hearing on Application Z2011-15 – 279  
Essex Road.

Upon a motion by Tom Belval, seconded by Dwayne Xenelis, it was:  
**VOTED:** Unanimously to re-convene the Regular Meeting portion of the Meeting at 7:55  
p.m.

A motion was made by Harry Ruppenicker Jr., and seconded by Tony Marino to:  
Approve Special Permit Application Z-2011-15 – 279 Essex Road, Bogaert Management,  
LLC for the conversion of an existing building into a Residential Multi-Family Use to  
consist of four two-bedroom apartments and 12 parking spaces, landscaping and other  
site improvements as depicted on the approved plans, subject to stipulations.  
This approval is granted subject to conformance with the referenced plans (as maybe  
modified by the Commission) with the following stipulations:

1. The spot light on the building shall be removed.
2. A landscaping plan will be submitted to the ZEO for approval prior to construction.  
The plantings shall be updated and visual buffering with neighboring homes  
properties shall be established.
3. Measures shall be taken to keep water on the property and prevent run-off to the  
private drive. A plan for this will be submitted to the ZEO for approval.
4. Applicant shall adhere to the recommendations from the Planning Commission in  
letter dated 12.15.11 from Meg Parulis, Town Planner.
5. In accordance with Note #7 on the revised plan, invasive species shall be removed  
and supplemented with plantings to the extent necessary as agreed upon by the ZEO  
and Cemetery Association (northern boundary along property of the Cemetery  
Association).
6. A landscaping Bond in the amount of \$3,500.00 shall be submitted prior to the start  
of construction, to guarantee the growth of plantings along the northerly border, for a  
period of two (2) years and additional landscaping requirements.
7. All exterior lighting for doorway entrances shall not exceed the minimum necessary  
to meet building Code and will meet the intent of the Zoning Regulations. If deemed  
necessary by the ZEO, automatic timing devises shall be installed on outdoor lighting  
fixtures.

Conditions which must be met prior to the issuance of any permits:

1. One final set of paper plans, and one set of plans in mylar form, with any required  
revisions incorporated on the sheets shall be submitted for signature of the  
Commission (with signature block). All final plans submitted for signature shall

- require the seal and live signature of the appropriate professional(s) responsible for preparation of the plans.
2. The conditions of this approval shall be binding upon the applicant, landowners, and their successors and assigns. A copy of the Certificate of Decision shall be recorded in the Land Records of the Town of Westbrook, CT. (*CGS 8-3c – Such permit or exception shall become effective upon the filing of a copy thereof in the office of the town...and, in the land records of the town in which the affected premises are located.*) The Town Clerk shall index the same in the grantor's index under the name of the record owner or owners, and the record owner shall pay the required sum of such recording.
  3. Submission of required bonds as itemized above.
  4. An Administrative Zoning and Inland Wetlands Application, shall be approved and issued prior to the commencement of any site work.

Conditions which must be met prior to certificates of compliance:

1. Final grading and seeding shall be in place prior to the issuance of a Zoning Compliance if weather is conducive.
2. Final as-built survey showing all structures, pins, parking, sidewalks, and final floor elevations as well as spot grades shall be submitted.
3. All public health and safety components of the project must be satisfactorily completed prior to occupancy. In cases where all public health and safety components have been completed, the Zoning Officer may issue a Certificate of Zoning Compliance provided a suitable bond is retained for any remaining site work.

General Conditions:

1. In accordance with Section 6.60.01 of the Zoning Regulations, any approval of a site plan application shall be completed within five (5) years after approval of the Plan. In accordance with Section 7.70.01, any approval for a Special Permit shall obtain a building permit and commence the construction of buildings within **one year from the date of approval** and **complete all improvements within five years of the date of approval**, otherwise the approval shall become null and void, unless an extension is granted by the Commission.
2. This project shall be constructed and maintained in accordance with the filed plans. Modifications to the approved plans shall be reviewed by the Zoning Commission. If minor modifications result in a lesser impact, they may be allowed subject to staff review and approval.
3. Any modifications to the proposed drainage or grading for the site plan is subject to the approval of the town's consulting engineer.
4. Additional erosion control measures are to be installed as directed by town staff if field conditions necessitate.
5. All landscaping will be maintained for the life of the project.
6. By acceptance of this approval and conditions, the applicant, owner and/or their successors and assigns acknowledge the right of Town staff to periodically enter upon the subject property for the purpose of determining compliance with the terms of the approval.

**NEW BUSINESS:**

**RECEIPT OF APPLICATIONS:**

1. **Z2011-17 – 316 Essex Road – Application of Eve Barakas for a proposed Zone Map Amendment to change a portion of a parcel that is an existing MDR Zone district to CD Zone District, involving a 2.1 acre area out of a 6.1 acre parcel, located on the east side of Essex Road (Rte 153) and North of I-95 (Assessor’s Map 166, Lot 027) (65-day application period ends 03/01/12).**

Applicant Eve Barakas was present and stated that she is proposing to use an existing house as a business.

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

**VOTED:** Unanimously to accept Application Z2011-17 – 316 Essex Road and set a Public Hearing for January 24, 2012 at 7:00 p.m. in the Multi-Media Room at the Mulvey Municipal Center.

2. **Z2011-18 – Flat Rock Place, Lots 166/023, 166/033 and 166/034 – Application of Middlesex Hospital for a proposed text amendment to change the allowed uses in the TIC-65 Zone District. (Applicable Zoning Regulations: [new Section 2.40.45b]; [revised Section 2.40.19], [revised to add Sections 4.94.13 and 4.94.14 to TIC Zone].) (65-day application period ends 03/01/12).**

Attorney Edward Cassella was present as well as Harry Evert, Senior Vice President of Middlesex Hospital and Steve Doherty, AIA, the SLAM Collaborative. Attorney Cassella stated that this parcel is 8.03 acres and are proposing text amendments that will be necessary to build a new facility. The current facility is located in Essex and they have outgrown it. Chairman Marino wanted it pointed out that this proposed text change will affect the whole I65 corridor, not just for this proposal for a facility.

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

**VOTED:** Unanimously to accept application Z-2011-18 – Flat Rock Place and to set a Public Hearing date of February 28, 2012 at 7:00 p.m. in the Multi-Media Room of the Mulvey Municipal Center.

**OLD BUSINESS:**

1. **Z2011-12 – 4 Mel’s Road (CAM) – Continued Coastal Area Management Application for proposal within 100 feet of coastal resources. Proposal involves the removal of existing house and rebuild of a new structure within required Zoning Setbacks. (65-day application period ends 01/26/12) [possible deliberation & vote].**

Architect Tom Elliott as well as applicants Diana & Robert Shoneck. Mr. Elliott stated that this is a conforming application and meets all criteria for all Zoning Regulations. This property is not in a flood Zones. ZEO Nancy Rudek recommended a stipulation that soil erosion and sediment controls be properly installed and maintained for the duration of the project, as recommended by OLISP.

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

**VOTED:** Unanimously to approve Z2011-12 – 4 Mel’s Road, as submitted with the following stipulation:

1. Soil and erosion and sediment controls will be put in place and approved by the ZEO prior to any work and will remain in place for the duration of the project.

**MISCELLANEOUS:**

**1. Proposed draft Amendments to the Zoning Regulations (discussion/schedule hearing):**

The Public Hearing for this item is scheduled for the February 28, 2012 Meeting.

**COMMISSION BUSINESS**

1. **ZEO Report:** Distributed and discussed.

2. **Miscellaneous Correspondence:**

1. Copy of regulations for removal of “Multi-Family” and add “Two-Family”. Matter was discussed.
2. Copy of e-mail from ZEO Nancy Rudek to Thomas Jurek regarding property located at 39 Grove Beach Road.
3. Copy of letter date 11/18/11 to ZEO Nancy Rudek from Geoffrey Jacobson of Nathan L. Jacobson & Associates, Inc. regarding consulting engineering services.
4. Copy of various communications regarding 157 Old Mail Trail.
5. Copy of letter dated 11/9/11 to First Selectman Noel Bishop from CT DEEP regarding their enforcement at 130 Boston Post Road.
6. Copy of letter dated 12/1/11 to ZEO Nancy Rudek from Robinson & Cole regarding 1542 Boston Post Road.
7. Copy of communication regarding Allure Salon Water’s Edge LLC.
8. Copy of communication regarding Mugzi’s at 730 Boston Post Road.
9. Copy of proposed Zoning Commission budget for 2012/2013.
10. Copy of 2012 meeting dates.

3. **Bills: Zoning Budget Report:** 2011/2012

The following bills were paid:

- Nathan L. Jacobson & Assoc. **\$208.69** (Flood Plain Reviews, Invoice #75054)
- Recording Secretarial Services: **\$352.24** (K. Kelemen, 10/25/11 & 11/22/11)
- Hartford Courant: **\$159.44** (Legal Notices – Inv. #11/30/11)
- CAZEO: **\$25.00** (Reimbursement to ZEO for CAZEO mtg on 12/7/11)

**150% Special Funds-Consulting Services**

Upon a motion by Dwayne Xenelis, seconded by Harry Ruppenicker Jr., it was: **VOTED:** Unanimously to approve the payment of \$870.45 to Tom Metcalf for the review for Water’s Edge Swimming Pool Project, Inv. #11-1116)

Upon a motion by Harry Ruppenicker Jr., seconded by Dwayne Xenelis, it was: **VOTED:** Unanimously to approve the return of \$9.55 to the applicant (Water’s Edge) total estimate and deposit = \$880.00.

**Special Funds – Consulting Services**

None.

**4. Enforcement:**

1. 308 Pettipaug Road.
2. 122 Wesley Avenue.
3. 130 and 144 Boston Post Road.
4. 80 Flat Rock Place.
5. 16 Chapman Drive.
6. 106 South Main Street.
7. 25 Menunketesuck Road.

**5. 2012/2013 Proposed Budget:**

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

**VOTED:** Unanimously to submit a proposed budget of \$87460.00 for Fiscal Year 2012/2013.

**APPROVAL OF MINUTES: October 13, 2011 Special Meeting, November 22, 2011**

**Regular Meeting:**

Upon a motion by Dwayne Xenelis, seconded by Tom Belval, it was:

**VOTED:** Unanimously to approve the minutes of the Special Meeting of October 13, 2011, as submitted.

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

**VOTED:** Unanimously to approve the minutes of the Regular Meeting for November 22, 2011, as amended.

**ADJOURNMENT**

Upon a motion by Tom Belval, seconded by Dwayne Xenelis, it was:

**VOTED:** Unanimously to adjourn this Regular Meeting at 8:55 p.m.

Respectfully submitted:

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Kathleen H. Kelemen