

**ZONING COMMISSION REGULAR MEETING CORRECTED MINUTES
NOVEMBER 24, 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 Alternate Member Tom D'Antico.

Also Present: Assistant ZEO/WEO Lisa DeMaria and 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:

None.

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 7:01 p.m.

1. ZC2014-015 – Continued Hearing for Text Amendment for proposed changes to fence definition. Applicant: Town of Westbrook application:

Town Planner Meg Parulis went over the changes that were made since the last meeting (revised to 11/17/15). All proposed changes were highlighted in yellow. There was discussion as to how the height of a fence is measured. A retaining wall will be included in the height of the height measurement. The height measurement excludes posts and ornamentation up to 8". The fence panel has to be 6'. There was no change to corner visibility. Changes made to Section 8.27.02 – No barbed wire around vegetable gardens. Section 8.27.04 & 05 were added to deal with site lines adjacent to a driveway. The fence must be no more than 3'6" - 10' from the edge of the pavement. For a corner lot 10' to 25' for lower fence. Harry Ruppenicker Jr. asked what about a fence or retaining wall that is there for safety purposes, like a drastic drop. Meg Parulis stated that for safety or security issues can be addressed through a site plan review. Harry Ruppenicker Jr. stated that maybe wording for safety issues should be added. Harry Ruppenicker Jr. also suggested adding "except where used to provide security to public utility structure tower or where constructed as a barrier" to Section 8.27.02.

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

1. John Stranieri – 257 Seaside Avenue stated that anyone can just go get a variance for fences.
 - Chairman Marino stated that this Commission does not handle variances.

Mr. Stranieri stated that you can't allow 6" under the panel because all the soil, rocks, woodchips, etc. wash through. He stated that 3-1/2' is too high and should be 2' high for site line issues. He feels a fence should be 6' total and if they want something different, they should go for a variance.

2. Liz Stranieri – 257 Seaside Avenue asked what about current violations? He stated that the setback from the pavement should be 20' instead of 10'. He doesn't feel that 10' is enough and she knows from experience.
 - Town Planner Meg Parulis stated for the record that without this regulation, there is no strict enforcement in the Regulations for fences, only for buildings. They have made a large effort to clarify how to measure fences and the purpose is to allow a standard 6' panel fence.
 - Commission Member Dwayne Xenelis asked what about having different standards in different zones.
 - Meg Parulis stated that maybe a brochure could be made up for residents with all the rules to follow. A lot of towns regulate this through Town Ordinance instead of Zoning Regulations.
 - Lisa DeMaria stated that complaints come from all different zones.

A letter dated 11/24/15 was received from DEEP and was read into the record.

Chairman Marino wanted the Commission to consider the issue of the Stranieri complaint of 10' not being enough for site line issues. Meg Parulis stated that 10' was used because it pretty much is the standard. Dwayne Xenelis stated that you can't build a regulation around on situation with a property. In this situation, the Police, Public Works and the Traffic Authority all felt that there was not an issue and we rely on these departments to help make a decision.

John Stranieri stated that the letter from the Traffic Authority was fraudulent.

Chairman Marino stated that Mr. Stranieri was out of order.

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

VOTED: Unanimously that at 7:50 p.m. there be a 10 minute break.

The meeting was reconvened at 8:00 p.m.

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

VOTED: Unanimously to close the Public Hearing on Application ZC2014-015.

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

VOTED: Unanimously to close the Public Hearing portion of the meeting at 8:01 p.m.

The Regular Meeting of the Commission re-convened at 8:01 p.m.

Election of Officers:

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

VOTED: Unanimously to elect Tony Marino as Chairman, Harry Ruppenicker Jr. as Vice Chairman and Dwayne Xenelis as Secretary.

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

VOTED: Unanimously to re-convene the Public Hearing portion of the meeting at 8:02 p.m.

PUBLIC HEARING:

2. 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. (35-day public hearing period ends 12/31/15):

Engineer Michael Harkin was present as well as applicant David Milano and Landscape Architect Larry Upton. Mr. Harkin stated that this is a previously disturbed site and there are a lot of wetlands on the property, as well as a vernal pool. They have been working with the Town on this project for a long time and it has been considerably down-sized since they started. They are now proposing 15 units in 3 mixed use commercial buildings. They will only be developing 1/3 of the site and it is located in the TIC64 Zone. All parking requirements have been met. There will be 2 access driveways to the property off of Pequot Park Road. They will have city water and there is a possibility that a gas line may come through in the future. The septic system has been approved by the Health Department. Multiple test pits have been done. They are proposing 1 catch basin and 1 sand filter. They will be creating a new wetland to replace some of the wetlands that they will be filling. All plans have been reviewed by the Town Engineer. This project will require a traffic study to see if traffic signals are needed.

The following communications were received and read for the record:

1. Planning Commission letter dated 11/16/15 with some recommendations.
2. IWWC letter dated 10/16/15 which stated they approved the application with stipulations.
3. Traffic Authority letter dated 11/24/15 stating they have no issues with the application.
4. Woodard & Curran letter dated 11/18/15 with findings and recommendations.

Michael Harkin stated that all items have been addressed and the plans have been revised and sent to Woodard & Curran for their review. They are waiting for a reply from them. It was stated that if approved tonight, it can be a condition of approval that all of the Engineers' recommendations have been met. Mr. Harkin stated that they are requesting a waiver of section 10.05.01, that a 12' x 50' area is needed for off street parking area for loading and off-loading. They are asking for a waiver because each unit will have a garage and there will not be any large trucks on site. Mr. Milano stated that the units will be all multi-tenant small user businesses and all units are self-contained. Mr. Harkin went over the architectural design and all the materials that will be used. The dumpsters/trash receptacles will be stored inside each individual unit and put outside on trash pick-up days only.

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

Town Planner Meg Parulis stated that the Town Engineer feels that the proposed lighting is adequate. It is stated in the "Statement of Use" that there will be no night time operations, but the applicant is willing to put lights along the 2 entrances and roadway between building B & C. There was discussion of the required fire hydrants. All utilities will be located underground.

The request for the waiver was withdrawn.

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

VOTED: Unanimously to close the Public Hearing for Application ZC2015-016.

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

VOTED: Unanimously to close the Public Hearing portion of the meeting and re-convene the Regular Meeting portion of the meeting at 8:50 p.m.

REGULAR MEETING:

Possible deliberation and vote of Public Hearings:

1. ZC2015-015:

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

VOTED: Unanimously to approve Application ZC2015-015 with the following amendments:

Section 2.40.39b: after “retaining wall” add “unless the fence shall be deemed the minimum height necessary for safety by the ZEO”.

Section 8.27.02: after the word “except” on the first line, add “when used to provide security to a Public Utility structure or tower or”.

Section 8.27.04: remove ‘street line’ and replace with “edge of pavement”.

2. ZC2015-016:

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

VOTED: Unanimously to approve Application ZC2015-016, Special Permit Application for 7 Pequot Park Rad, to construct 3 commercial buildings as flexible small business spaces. This approval is granted subject to conformance with the referenced plans (as may be modified by the Commission) with the following stipulations:

1. Final review and approval of revised plans dated 11/19/15 by the Town Engineer and completion of all items indicated in Town Engineers letter dated 11/5/15.
2. Submission of a Traffic Impact Analysis in conformance with Section 4.96.01. NOTE: Approval of Office of State Traffic Administration required prior to issuance of a Building Permit.
3. Submission of an erosion and Sediment Control Bond in the amount of \$6,200.00 prior to construction, subject to the approval of the Town Engineer.
4. Additional lighting as recommended by the Town Engineer.
5. Addition of fire hydrants as approved by the Fire Chief and Fire Marshal.
6. The plans shall be modified to indicate a loading area to be held in reserve for Building B & C. The requirement shall be waived for Building A.

RECEIPT OF APPLICATIONS:

1. ZC2015-018 – 215 Old Mail Trail – (Map/Lot 195/062) Coastal Area Management

Application for the renovation and addition of porches on a single family house.

Applicant/Owner: Dominic De Martino, Agent: H. Brian Dumeer, Esq. (Application Period ends 1/28/16):

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

VOTED: Unanimously to receive Application ZC2015-018 and to place it on the Agenda for December 15, 2015 Regular Meeting to be held at 7:00 p.m. in the Multi-Media Room at the Mulvey Municipal Center.

NEW BUSINESS:

None.

OLD BUSINESS:

None.

MISCELLANEOUS:

None.

COMMISSION BUSINESS:

1. ZEO Report:

There was no report available.

2. Bills:

The following bills were paid out of the Operating Budget:

Branse & Willis, LLC: \$1,535.50 Legal Services (138 S Main St, 1961 BPR & 70 Captains Dr)

Kathleen Kelemen: \$109.80 (Secretarial Duties, October 2015 Meeting)

Kathleen Kelemen: \$24.40 (Transcription Services, 1961 Boston Post Road)

Hartford Courant: \$114.13 (Legal Ad, Invoice #002276261)

150% Special Funds – Consulting Services:

None.

Special Funds – Bond Releases

None.

APPROVAL OF MINUTES:

Special Meeting – October 15, 2015:

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

VOTED: Unanimously to approve the Special Meeting Minutes of October 15, 2015, as amended.

Regular Meeting – October 27, 2015:

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

VOTED: Unanimously to approve the minutes of the Regular Meeting of October 27, 2015, as amended.

ADJOURNMENT:

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

VOTED: Unanimously to adjourn at 9:02 p.m.

Respectfully submitted:

Kathleen H. Kelemen, Secretary

NOTE: Changes indicated in bold, underlined and italicized print.