

MINUTES
ZONING COMMISSION
OCTOBER 1, 2008 - 7:00 P.M.
TOWN HALL ANNEX – COMMUNITY ROOM 2

I. ROLL CALL

Present: French, Hudecek, Brandt, O'Neill, Haviland, Alternates Sutherland, Cady
Absent: Marquardt
Staff: Murphy, Cullen, Moulding

II. PUBLIC HEARINGS

1. Special Permit #306, 0 Winding Hollow Road, (Rhodes, Applicant) - continued

The Chairman re-opened the hearing at 7:05 p.m. Attorney Tim Bates from Robinson and Cole stated that the two outstanding issues from the last meeting were correcting some of the mailings to property owners and awaiting Attorney Carey's comments on a sewer easement. He stated that the mailings have been corrected and made. Attorney Carey's comments on an easement were received and responded to. In his opinion, Attorney Carey is now satisfied the document is accurate. Attorney Bates stated that the execution and delivery of the easement document would be a requirement of any approval. He stated that the application is complete and meets the requirements in the Zoning Regulations. This special permit would allow the site to be stabilized and made safe for the Town. Any punitive action and/or enforcement will be handled by the Town's Zoning Enforcement Officer and the Zoning Board of Appeals.

Staff stated that if someone alters a property through regulated fill or excavation it needs to be left in condition for a suitable use in the zone. With the alteration and addition of so much fill and the condition of the fill staff needs to make sure that no one will end up with the property until it can be sewerred and is in usable condition. Staff will be reviewing an opinion submitted by the Town Attorney late this afternoon and will recommend conditions and limitations. Staff stated that any enforcement issues will be dealt with in Court. Staff is monitoring the stabilization of the site and submitted pictures taken September 25, 2008 at the site. The applicant's action has obviated the ability to do a septic system on the site. If this application is not approved the applicant would be ordered to remove all of the fill which would raise more issues and require another wetland permit. Putting conditions on getting a building permit should be enough to ensure the sewer line is put in. Staff will consider these issues and other issues like performance bonding when drafting a motion. Staff recommended closing the hearing and tabling the decision. The appeal of the Zoning Official's decision is going before the Zoning Board of Appeals on October 8th. Ledge Light Health district does not object to the proposal because it would need to be served by municipal water and sewer. Staff stated that the Inland Wetland Agency permit gives specifics about the hours of operation. Public Works is requiring the sidewalk be repaired. Staff has had the applicant do restoration work on the site already. Reestablishing an intermittent watercourse on the site was worked into the wetlands permit. Staff's recommendations will address all technical concerns like erosion control, etc.

Ed Wenke, Engineer stated that the applicant would not be doing any of the work himself; he has hired a local contractor.

The Chairman asked for public comments.

Jeff Nelson, 23 Chase Oaks Court is concerned with whether or not the applicant will do the necessary work according to the permit.

Attorney Tim Bates stated that the evidence is pretty clear that there will be more damage than less if the fill is removed.

The public hearing was closed at 7:48 p.m.

2. Special Permit #307, 0 Sandy Hollow Road, PIN 261909261582, (Precious Memories Preschool of Mystic, Applicant) (CAM) - continued

Commissioners Cady and O'Neill recused themselves from this hearing and left the meeting. The Chairman opened the hearing at 7:49 p.m. Chairman Hudecek appointed Sutherland to sit for O'Neill.

Ed Wenke, Engineer stated that the Fire Marshal, Bill Wells will do a final review of the site at site plan review stage. Ledge Light Health District stated that the site may be able to handle a septic system but is reserving final approval till site plan review. Staff concurred that these agencies had completed their review and had no adverse comments.

Staff stated that the Planning Commission referral was also outstanding after the last meeting. The referral had to be deferred because of questions and comments made by Attorney Cody regarding commissioners Roper and Sherrard. Staff read the following comment from the Planning Commission.

The Planning Commission reviewed the referral on September 23, 2008 and had the following comment:

MOTION: The Planning Commission is not recommending for or against, but has the following concerns in regard to Special Permit #307, proposed child daycare facility.

1. Its harmony with the existing residential properties by the extension of institutional development;
2. Increased site traffic, related traffic noise, and pedestrian safety on existing streets (there are no sidewalks on Sandy Hollow Road or Pequot Avenue for pedestrian safety).
3. The degradation of the scenic road designation by added institutional development.
4. The potential impact of I-95 vehicular noise on daycare children.

Motion made by Sherrard, seconded by Roper. Motion passes 3 – 2, 2 opposed (Pritchard, Steinford).

Staff stated that Attorney Cody had raised issues regarding communications that Zoning Commission members may have had from the commencement of this public hearing to now. The Town Attorney stated that the Commission members should put into the record and disclose any communications they may have received, electronic or

otherwise. Commissioner French stated that she was asked a question by a reporter and she stated that she could not comment on an open application. She did comment in general that decisions by the Commission are made not on the applicant but on the use of the land.

Staff stated that an independent traffic engineer did not indicate any other improvements were needed at the Pequot intersection at this time. An Inland Wetland Agency permit has been obtained. There are no significant environmental issues. The proposal should not be detrimental to neighboring properties. Staff reviewed the location of the site and distances to neighboring properties. The site is 12' below the grade of Sandy Hollow Road which may reduce the outdoor noise from the play area, if this concerned Commission members. The entrance drive may have to be reworked within the site during the site plan stage. Overall, staff did not feel the application was not incongruous with the special permit objectives.

The Chairman asked for public comments.

Elizabeth Conlon, 341 Pequot is against the proposal and submitted a letter with her comments.

Dan Tassias, 60 Sandy Hollow Road is concerned with the ground level of water in that area of mystic. He stated that the water level is dropping rapidly and wells are being drilled 300 to 400 feet.

Ed Wenke stated that perch water tables averaged 30 – 36" below ground. The water demand on this particular use is less than two four-bedroom homes.

Nancy Steenburg 493 Pequot Avenue is against the proposal and is concerned with traffic and the hours of operation.

Attorney John Chase reviewed letters from the public which complained about a commercial use and he stated that this is not the case. The applicant objects to comments made by Elizabeth Conlon regarding threats.

Staff stated that the parent handbook is not required as part of the regulations.

Chris Eckersley, owner stated that they do have a handbook which says nothing about evening and weekend hours. The hours of operation are Monday through Friday 7 a.m. to 6 p.m. Ms. Eckersley can drop off a parent handbook in the morning if the Commission would like one. She also stated that there is one washer and dryer in each facility for towels and infant clothes.

Beth Williams, 221 Pequot Avenue is against the application and concerned with on site water and septic.

Carla Henschel, 253 Pequot Avenue is against the application and concerned with water use rates.

Paul Henschel, 253 Pequot Avenue asked about the amount of laundry done on site.

Staff has had internal discussions regarding potential conditions regarding limits on future development of the remainder of the site. Staff would like the applicant to come forward with conditions for or encumbrances on the remainder of the property as opposed to the Town mandating such encumbrances(s). The system for water and utilities would be designed at the site plan stage.

Ed Wenke stated the applicants may apply for a subdivision for one single family home on the site with a large donation of open space.

Susan Caron, 103 Pequot Avenue is against the proposal and does not believe it is in harmony with the area.

Letters in opposition were submitted from Frank Wellersdieck, 482 Pequot Avenue and David Simoncini.

The public hearing was closed at 8:48 p.m.

III. APPROVAL OF THE MINUTES OF September 3, 2008* and September 24, 2008

MOTION: To approve the minutes of September 3, 2008 as written.

Motion made by French, seconded by Sutherland, 5 in favor, 0 opposed. Motion passed.

MOTION: To approve the minutes of September 24, 2008 as written.

Motion made by French, seconded by Sutherland, 5 in favor, 0 opposed. Motion passed.

IV. PUBLIC COMMUNICATIONS

Staff stated that there is a Land use Academy training in Torrington in November. If anyone would like more information, please let staff know.

V. CONSIDERATION OF PUBLIC HEARINGS

1. Special Permit #307, 0 Sandy Hollow Road, PIN 261909261582, (Precious Memories Preschool of Mystic, Applicant) (CAM)

MOTION: To approve special permit #307, 0 Sandy Hollow Road, PIN 261909261582.

Motion made by Haviland, seconded by Brandt, (0 in favor, 5 opposed) Motion denied.

MOTION: To deny special permit #307, 0 Sandy Hollow Road for the following reasons:

1. The proposal is not in harmony with existing residential properties.
2. There are issues with the traffic leading to an unacceptable level.
3. There would be a negative impact on the Sandy Hollow Road Scenic Road designation.

Motion made by Haviland, seconded by Sutherland, 5 in favor, 0 abstentions.

The Commission did not take action on the Coastal application due to the negative vote on the special permit application.

VI. OLD BUSINESS

1. Land Use Regulation Update Project

Staff asked the Commission to please write their comments down and submit to staff by October 8th if possible.

VII. NEW BUSINESS

1. Receipt of New Applications – None

2. 2009 Meeting Schedule

MOTION: To approve the proposed 2009 meeting schedule.

Motion made by Hudecek, seconded by French, 5 in favor, 0 opposed. Motion passed.

VIII. REPORT OF CHAIRMAN - None

IX. REPORT OF STAFF

Staff updated the Commission on the status of the Central Hall property, Chipperini property, and the Mystic Streetscape project.

X. ADJOURNMENT

Motion to adjourn at 9:25 p.m. by Haviland, seconded by Brandt, so voted unanimously.

Richard Haviland, Secretary
Zoning Commission

Prepared by Robin Moulding
Office Assistant III