

MINUTES  
GROTON ZONING COMMISSION  
MARCH 5, 2008 - 7:00 P.M.  
TOWN HALL ANNEX – COMMUNITY ROOM 2

I. ROLL CALL

Present: Brandt, Cady, French, Haviland, Hudecek, Marquardt, O'Neill, Sutherland  
Staff: Cullen, Davis, Gilot

Chairman Hudecek opened the meeting at 7:00 p.m.

II. ELECTION OF OFFICERS

MOTION: To elect Hudecek as Chairman of the Zoning Commission for 2008.

Motion made by Haviland, seconded by O'Neill, so voted unanimously.

MOTION: To elect Haviland as Secretary of the Zoning Commission for 2008.

Motion made by Hudecek, seconded by French, so voted unanimously.

III. PUBLIC HEARINGS

1. Special Permit #300, 0 Winding Hollow Rd, PIN# 169913044887 RU-20 zone. Proposal to permit 7,800 ± cubic yards of fill to remain as placed. Review is per Section 8.3 and 7.1-10 of Groton Zoning Regulations. (Cecil Rhodes/applicant)

Marcus Lanthier, 152 D Street, Groton, stated that Mr. Rhodes had asked him to attend the hearing and take notes. Mr. Lanthier was unaware of and did not know Mr. Gardner was the applicant's agent, and was not prepared to make a presentation of the proposal. Mr. Rhodes had no representative at the meeting to present the application.

Haviland stated that if the applicant did not show, send a representative, or contact the Planning Department, the Commission does not need to extend the hearing.

Motion to dismiss the application based on the applicant's failure to properly present the application was made by Haviland.

Haviland withdrew the motion.

Staff said they would rather the Commission not close the hearing, but if they were going to take action tonight, staff felt it would be better to take action based on substantive issues in the record.

Discussion ensued on opening the public hearing and hearing staff comments and public comments, or dismissing the application based on the applicant's failure to appear and present his proposal. Staff explained that Mr. Rhodes submitted this application in response to an enforcement order. The Town ordered Mr. Rhodes to cease the fill operation and to obtain the proper permits for the fill.

Staff gave a brief summary of their analysis, findings and recommendations. The property was originally a part of the Fleet Bank Subdivision. Sheets from the Fleet Bank Subdivision plan were entered into the record. Staff explained that this particular lot, in addition to environmental constraints, cannot be served by public sewers without substantial difficulty. The lot's legal identity as a buildable lot is predicated on its ability to support an onsite septic system given that the Planning Commission waived the public sewer connection requirement when they approved the Fleet Bank Subdivision. Staff explained that the comparison of original test pit data to the most recent plans indicates that the amount of existing ledge is far more extensive than what was depicted in the original plan. The site has been filled, but also prior to the fill being installed, portions of the site were stripped of native soil down to ledge. Staff cannot recommend approval of the special permit as to do so would make the Town complicit in possibly invalidating the lot's ability to comply with the terms of the Planning Commission approval of the Fleet Bank Subdivision (ability to accommodate on-site septic). Gary Schneider, Town Public Works Director, issued a letter stating that based on the plans submitted, Mr. Rhodes can tie into public manhole #12 with a pressurized line, but it is a considerable distance from the site. Manhole #13 is not a public manhole. Staff said there are other issues including noncompliance with fill and grading standards and the condition of slopes. A portion of the site is in the WRPD. Staff entered the following into the record:

- Planning Commission referral dated February 28, 2008
- The Dept. of Health notification (Public Drinking Water Source Protection Area) dated 1/9/08
- Mailing notification
- Greg Hanover, Town of Groton Supervisor of Technical Services, request for repair of broken sidewalk at entrance to the property, dated 2/1/08
- Deb Jones' comments regarding pieces of the property that do not conform to 7.1-10 and 8.3, as well as groundwater breakout and inland wetlands issues, dated 1/29/08
- Aerial photo from 2004 showing the site as completely wooded. (Mr. Rhodes took possession in 2005)
- Inland Wetlands Agency enforcement action, dated 11/2/06
- Zoning Enforcement Inspector's enforcement action, dated 5/23/07
- Ledge Light Health District denial from Ryan McCammon, dated 1/15/08

The Chairman opened the hearing to the public.

Charlie Schneider was asked by Mr. Rhodes to appear before the Commission. Mr. Schneider indicated that Mr. Rhodes has an agreement with the nearby condominium complex to tie in to manhole #13.

Edith Fairgrieve, Roland Street, Mystic, spoke against the application.

Benjamin Peters, 59 Leafwood Lane, spoke against the application.

Ryan McCammon, Ledge Light Health District, said the site was originally approved for a three bedroom house with onsite septic. In order to remove the septic requirement, Ledge Light Health District needs notification from Town that public sewers are available to the subject lot.

Staff said it has been explained to Mr. Rhodes that he has an option to tie into a public manhole (#12). Staff explained the wetlands permit pending as a result of that enforcement action.

Staff also read into the record an email letter received from Barbara Sebeck on March 2, 2008, against the project because of the dust and the noise.

Staff received a phone call from Mamie Rutherford, who spoke against the project because of noise, late hours of work and profanity on the cell phone by Mr. Rhodes.

**MOTION:** To close the public hearing for Special Permit #300, 0 Winding Hollow Road.

Motion made by Haviland, seconded by O'Neill, so voted unanimously.

2. Proposed Zoning Regulation Amendment to Section 7.3-5 A.2 (Signs Permitted in All Districts). To permit temporary Open House Directional Signs for real estate sales. (Eastern Connecticut Association of Realtors, Inc./Applicant)

Haviland recused himself from the public hearing. Chairman Hudececk seated Cady for Haviland.

Susan Barnhouser, President, Eastern Connecticut Association of Realtors (ECAR) presented the application for a regulation amendment to allow four temporary directional signs for every open house, one hour before and one hour after an open house.

John Bolduc, Executive Vice President for ECAR, also spoke on the application. He explained the need for directional signs, and that this application is for open house signs only.

Staff explained that signs are currently allowed on the property, but no off-site, street signs are permitted. This application is a result of compliance enforcement by the Town's code enforcement inspector.

Staff read the following referrals into the record:

- 1) SCCOG, dated
- 2) Lee Treadway, Town code enforcement inspector, letter dated 2/6/08
- 3) John DeCastro, Engineer, CONNDOT, dated
- 4) Planning Commission referral, dated
- 5) Planning staff review memo, dated

Staff explained their review including the five other sections that would have to be amended within the Regulations, which were not part of the application, nor legally notified. The current regulations do not permit temporary offsite signs and non-accessory signs. Temporary banners are allowed, with a permit.

The Chairman asked for public comments.

Michael Collins, a realtor, 45 Elderkin Avenue, spoke in favor of the application.

Lian Obrey, realtor, spoke in favor of the application.

Peter Vandenbosch, 100 Winding Hollow Road, spoke against the application.

Bob Kimball, realtor, spoke in favor of the application.

Jim Chambers, 216 Dawley Drive, Stonington, owner of a subdivision in Bailey Hill, explained his concern for public safety which could be improved by providing the open house directional signs.

John Bolduc spoke about signs for real estate as opposed to business signs.

John Vincent, realtor, spoke in favor of the application.

Andy Conrad, realtor, spoke in favor of the application, based on the safety.

David Evans, agent for the applicant, spoke about the sign ordinances in other towns in Connecticut. Mr. Evans submitted to the Commission the copies of the zoning regulations for Cheshire, Wethersfield, Milford and Granby.

The public hearing was closed at 8:50 p.m.

#### IV. APPROVAL OF THE MINUTES OF January 2, 2008

MOTION: To amend the minutes as noted.

Motion made by Haviland, seconded by French. Motion passes 3-0-2, 2 abstentions (O'Neill, Hudecek).

MOTION: To approve the minutes of January 2, 2008 as amended.

Motion made by Hudecek, seconded by Brandt. Motion passes 3-0-2, 2 abstentions (O'Neill, Hudecek).

#### V. PUBLIC COMMUNICATIONS

Staff said the annual conference for the Connecticut Federation of Planning and Zoning Agencies will be held on Thursday, March 27, 2008 at the Aqua Turf Country Club and asked that members please respond to staff before the end of this week if interested in attending. Staff may also arrange for car-pooling if anyone is interested.

#### VI. CONSIDERATION OF PUBLIC HEARINGS

1. Special Permit #300, 0 Winding Hollow Rd, PIN# 169913044887 RU-20 zone. Proposal to permit 7,800 ± cubic yards of fill to remain as placed. Review is per Section 8.3 and 7.1-10 of Groton Zoning Regulations. (Cecil Rhodes/applicant)

The Commission deliberated on the record.

**MOTION:** To deny Special Permit #300, 0 Winding Hollow Road, because procedurally, the applicant was not present and had not requested an extension of the hearing, and based on the analysis included in staff's presentation, it does not appear to meet the criteria for a special permit have been met.

Motion made by Haviland, seconded by French. Motion passes unanimously.

Haviland left at 9:08 p.m.

2. Proposed Zoning Regulation Amendment to Section 7.3-5 A.2 (Signs Permitted in All Districts). To permit temporary Open House Directional Signs for real estate sales. (Eastern Connecticut Association of Realtors, Inc./Applicant)

Staff explained that they had discussed all of the issues and deficiencies in the proposal with the applicant well in advance of the public hearing and had recommended withdrawal, but the applicant chose to proceed.

Commissioner French and the Chairman suggested a temporary moratorium on open house signs and direct the Town zoning enforcement officer accordingly. Staff indicated that the effort was part of a more comprehensive compliance program (as to signs) and that it would not be fair to other businesses to engage in selective enforcement. Staff also noted that the zoning enforcement officer does not work for the Zoning Commission.

Staff felt the extent of modifications necessary was beyond the scope of what could be permitted via modifications of approval. Staff also felt that the equal treatment issue and potential for additional "offsite" accessory sign requests were important concerns that needed to be fully examined and resolved.

The Chairman felt that this was a simple issue and that with very minor changes, the proposal could be approved. Staff disagreed, noting that each community crafts its own regulations for signs as a comprehensive whole, and it is not recommended that one provision be considered independent of the policy framework established in the overall regulation.

It was the consensus of the Commission that there are five other sections of the regulations that would be affected by this proposed amendment and those sections cannot be amended with this application. In addition, the equal treatment issue needed to be evaluated and if possible, resolved.

**MOTION:** To deny without prejudice the proposed regulation amendment to Section 7.3-5 A.2 (Signs Permitted in All Districts) based on the impact on other sections of the Zoning Regulations.

Motion made by O'Neill, seconded by French, so voted unanimously.

The Commission asked staff to work with the applicants to develop a regulation amendment that addresses the issues identified by the various review agencies

## VII. OLD BUSINESS

VIII. 1. Discussion regarding By-Laws

Haviland stated prior to leaving the meeting that, for the record, his opinion is that the Zoning Commission does not need by-laws, Roberts Rules of Order works fine, and he is generally opposed to adding another layer of bureaucracy. French said she would suggest the Commission have Rules of Conduct rather than by-laws.

The discussion was tabled to a future meeting.

French distributed to the Commission members a copy of an email response to a staff email regarding her request for traffic accident data during the "Mystic Woods" special permit hearing.

IX. NEW BUSINESS

1. Receipt of New Applications

- a. Special Permit #303, 250 Leonard Drive, Leonard Drive Subdivision, Stockpile Relocation (CAM) (Terra Firma Enterprises, Applicant)

Staff stated that this application has recently been submitted. A public hearing would be scheduled for May 7, 2008.

- b. Special Permit #304, 7 Gravel Street (CAM) (GRVL LLC Owner, Chuck Canavan, Applicant)

This is a request to convert the former Mason's Hall to a two family home.

A public hearing was scheduled for May 7, 2008.

X. REPORT OF CHAIRMAN - None

XI. REPORT OF STAFF

Staff discussed the legislative proposal from Councilor O'Beirne to amend state law to allow the Council to override Zoning Commission decisions.

Staff said the contract with Kendig Keast Collaborative for the comprehensive regulation update project was close to being signed. Based on questions from the Commission, staff gave a brief outline of the work program.

XII. ADJOURNMENT

Motion to adjourn at 10:04 p.m. by Hudecek, seconded by O'Neill, so voted unanimously.

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Richard Haviland, Secretary  
Zoning Commission

Prepared by Debra Gilot, Office Assistant II