

**COLCHESTER PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES
WEDNESDAY, JANUARY 5, 2011
TOWN HALL, 127 NORWICH AVENUE, COLCHESTER, CT
7:00 P.M.**

MEMBERS PRESENT: Chairman Joseph Mathieu, Tom Kane, Mark Noniewicz, John Rosenthal, L. Hodge, Stacy Brown (arrived 7:04 p.m.) and David Gesiak; Alternates: James Miller and John Novak

MEMBERS ABSENT: None

STAFF PRESENT: Adam Turner, Planning Director; Craig Grimord, Assistant Planner/Zoning Enforcement Officer; Gail Therian, Clerk;

1. **CALL TO ORDER** –Chairman Mathieu called the meeting to order at 7:02 p.m.

2. **Roll Call**

Chairman Mathieu asked the clerk to note those in attendance.

3. **Additions to Agenda** – None

4. **Minutes of Previous Meeting - Regular Meeting – December 15 2010**

Motion by T. Kane, seconded by J. Rosenthal to approve the minutes of the December 15, 2010 meeting as presented.

Abstentions: L. Hodge All others in favor. **Motion Carried.**

5. **Public Hearings** -

This Public Hearing was continued from the December 15, 2010 meeting.

Chairman Mathieu asked the members of the audience if anyone had any concerns or comments about the members of the Commission that were seated for this Public Hearing - No comment. He went on to explain the Public Hearing procedure.

- A. **SE#10-005-Terry Howard, Roy & Linda Glenn Applicant/Owners;** Special Exception application per Section 4A.3.10 to change the use to a Educational Facility at 532 New London Rd., Map #01-10, Lot #03A-000, R-60 Zone. Property is located on the west side of New London Rd.(CT Rte. 85), approximately 250 ft. South of the Intersection of Marvin Rd. and New London Rd. (**Public Hearing opened 12/15/10, continued to 1/5/11**)

An updated copy of the Exhibit List and Staff Report dated January 5, 2011 were distributed to the Commissioners. C. Grimord told the Commission that a revised plan has been received and a conceptual approval letter was received from the Health Department. He said that his Staff Report included a synopsis of the application and staff findings of the Special Exception Evaluation Criteria. He said he and A. Turner visited the site to access the noise and visual effects of the proposed use on the surrounding properties. He said that the nearest residence is several hundred feet from the area for the proposed use and does not feel there will be any visual effects or increase in noise levels on the neighborhood.

A. Turner told the Commission that while on the site it was noted that there are numerous abandoned vehicles and equipment from the former use which should be disposed of prior to the issuance of a Certificate of Zoning Compliance for the Change of Use. The clearing of the existing vehicles and equipment has been addressed as a condition of approval in the recommended motion.

Speaking in Favor

Terry Howard, applicant, thanked the staff and Commission for their help and consideration of this application. He said he plans to clear the abandoned vehicles and equipment as part of the project and will also improve the landscaping in the area. He said that he has worked with the Health Department regarding the septic issues and now has their conceptual approval.

Speaking in Opposition

Maggie Bogush, 525 New London Road, asked about the location of the driveway. C. Grimord indicated the location of the driveway on the plan.

Discussion followed regarding the hours of operation.

RECEIVED
COLCHESTER, CT
011 JAN -7 PM 1:33
Maggie Bogush
Craig Grimord

Motion by M. Noniewicz, seconded by L. Hodge to close the Public Hearing on SE #10-005. **Motion carried unanimously.**

6. Preliminary Reviews - None
7. New Business & Applications Received - None
8. Five Minute Session for the Public – No one spoke
9. Pending Applications

- A. SDP #10-010 – Gas Development, LLC Applicant/Drake Petroleum Co. Inc. Site Development application for Gas Station renovation at 332 South Main Street, Map #13-10; General Commercial Zone

C. Grimord said that L. Hodge listened to the audio portion of the last two meetings and signed an affidavit stating this and would be able to deliberate and vote on this application. The seven regular members of the Commission were eligible to deliberate and vote on this application.

C. Grimord complimented the applicant and his representatives on a job well done in presenting a proposed site plan with significant improvements; thereby reducing the number of non conformities on this site. He said that the Commission members received the Staff Review of Application which included the timeline, Staff Findings, and Recommended Motion in their packets. A Revised Recommended Motion was distributed at this meeting. He said that the applicant is still working with the adjacent property owners regarding the curbing radii and that the applicant will continue to keep staff informed on the progress of this issue. This issue is included as a plan correction/addition to the approval in the recommended motion. Discussion followed regarding the curbing radii.

Motion by M. Noniewicz, seconded by L. Hodge that in conjunction with the findings in Staff memo dated December 29, 2010, the Planning and Zoning Commission hereby approves application SDP#10-010, Gas Development, LLC applicant, for property at 332 South Main Street, Assessor's Map #13, Lot #10, General Commercial/APA Zones with the following plan corrections/additions:

1. A pre-construction meeting with Town Staff is required prior to commencing work on the site.
2. Prior to issuance of permits for construction, the applicant is to provide copies of:
 - A. The DOT encroachment Permit for work within the state right-of-way;
 - B. Executed easement documents, except the cross-easement to the Wendy's Site. This document will be held in the file, unsigned, with the condition that it will be signed by the owner of the property when and if the owner of the Wendy's site is required to execute it.
 - C. Two sanitary sewer easements to the Town of Colchester;
 - D. Posting of a bond in an amount acceptable to the Town Engineer totaling 25% of the total cost of the improvements.
3. Final plans are to be revised to show the staff approved sidewalk design for Dr. Foote Rd as shown in exhibit BB and to include complete topography for the proposed sidewalk and to include any additional details as required for the construction. The sidewalk design on plan sheet C-7 is to be replaced with approved design shown in exhibit BB.
4. The pylon sign detail on plan sheet A-1 & A-2 is to be replaced with the code compliant detail provided in Exhibit BB.
5. The applicant is to keep staff informed as to talks with the abutting property owner regarding the proposed site *access curb radii for compliance with the regulations. If an agreement is reached before commencement of construction, the alternative curb design shown on plan sheet C-7 is to be constructed, and copies of the filed easement documents provided to the Town.*

Motion carried unanimously

- B. SE#10-005-Terry Howard, Roy & Linda Glenn Applicant/Owners: Special Exception application per Section 4A.3.10 to change the use to a Educational Facility at 532 New London Rd., Map #01-10, Lot #03A-000, R-60 Zone. Property is located on the west side of New London Rd. (CT Rte. 85), approximately 250 ft. South of the intersection of Marvin Rd. and New London Rd. (**Application Received 12/1/10; Public Hearing opened 12/15/10 and closed 1/5/11**)

C. Grimord said that L. Hodge listened to the audio portion of the last two meetings and signed an affidavit stating this and would be able to deliberate and vote on this application. The seven regular members of the Commission were eligible to deliberate and vote on this application.

The Commission discussed the fee in lieu of sidewalks and the hours of operation. It was determined that a condition of approval should state that the classroom hours should be 8:00 A.M. – 9:00 P.M. Monday through Friday and Saturday from 8:00 A.M. – 12:00 p.m. The hours for on-site driving instruction should be 8:00 A.M. through 4:30 P.M. Monday through Friday and Saturday from 8:00 A.M. – 12:00 p.m. M. Noniewicz stated that he was in agreement with the Staff Findings on the Special Exception Evaluation Criteria.

Motion by M. Noniewicz, seconded by L. Hodge that in conjunction with the findings in Staff memo dated 1/5/11, motion is hereby made to approve SE#10-005, application of Terry Howard to change the non-conforming industrial use at 532 New London Road, Map #01-10, Lot #03A-000 to a conforming Special Exception Use (Educational Facility) in the R-60 Zone and the associated site plan (Exhibit) with the following conditions:

1. Applicant will contribute a fee in lieu of providing on site sidewalks in an amount to be determined by section 12.3.14 of the towns zoning code and as established by Town meeting
2. Existing site lighting is to be retro-fitted or replaced with conforming or compliant fixtures.
3. There is to be no repair, maintenance or fueling of equipment or vehicles on the site.
4. Applicant is to obtain a State of CT DOT encroachment permit for the proposed new driveway and sidewalk.
5. Class size is limited to five (5) students per class, with no more than two (2) classes per day with classroom hours from 8 AM- 9 PM Monday –Friday and 8 AM-12 Noon on Saturday and on-site driving instructions from 8:00 A.M. – 4:30 PM Monday – Friday and 8 AM – 12 Noon on Saturday . Any expansion of class size, hours of operation or parking lot expansion will require a modification to the Special Exception.
6. Prior to issuance of a Certificate of Zoning Compliance for the Change of use:
 - A. All approved site plan requirements and conditions are to be met;
 - B. The site is to be cleared to the satisfaction of the Zoning Enforcement Officer of all materials, vehicles and equipment associated with the former use.
 - C. All Public Health Code requirements and conditions are to be met.

Motion carried unanimously.

10. Old Business – None

11. Planning Issues & Discussions

A. Water & Sewer Study

A. Turner told the Commission that the plan is to provide public utility service to areas South and Southeast of the Termination Point which is just south of Gilbertie's Restaurant has completed the plan and the consultant will present it to the Commission at the first meeting in February. He reviewed the Sewer and Water Infrastructure Expansion Project including the background, the benefits to the Town and the developers and the next steps in the project.

12. Zoning Enforcement Officer's Report –

A. 2010 Enforcement Summary

C. Grimord said that the 2010 Enforcement Summary was included in the Commissioner's packets. This is a year-end summary of the number of complaints from residents pertaining to alleged zoning violations, the number of New Enforcement Cases opened and closed and the number of permits reviewed and issued in 2010.

B. Request to seek legal assistance for enforcement of M & J violations

C. Grimord said that an Enforcement Time Line for M & J Auto had been included in the Commissioner's packets. He said that this enforcement is now over one year old. He said that three (3) Cease & Desist Orders have been issued within the year and his last site walk found that the number of construction vehicles had increased and there is evidence of repair work being done on some of the equipment. An application for Site Plan Development had been submitted but withdrawn. He feels that he has exhausted his enforcement actions and was asked the Commission for permission to seek a legal solution. Discussion followed regarding the enforcement process and the legal solutions that would be available to close this enforcement case.

Chairman Mathieu asked for a motion to allow staff to request permission from the First Selectman to seek legal assistance for enforcement of M & J Auto, 524 New London Road violations.

So moved, by M. Noniewicz, seconded by L. Hodge. **Motion carried unanimously.**

13. Correspondence - None

14. Adjournment

Motion by L. Hodge, seconded by M. Noniewicz to adjourn at 8:13 p.m. **Motion carried unanimously.**

Gail N. Therian, Clerk