

COLCHESTER PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES
WEDNESDAY, OCTOBER 5, 2011
TOWN HALL, 127 NORWICH AVENUE, COLCHESTER, CT
Room 1
7:00 P.M.

MEMBERS PRESENT: Chairman Joseph Mathieu; Tom Kane, Vice Chairman; John Rosenthal and Dave Gesiak;
Alternates: James Miller and John Novak;

MEMBERS ABSENT: Mark Noniewicz, Stacy Brown and Linda Hodge

STAFF PRESENT: Adam Turner, Planning Director; Craig Grimord, Assistant Planner/Zoning Enforcement Officer; Gail Therian, Clerk; Stan Soby, Board of Selectmen Liaison; Gregg Schuster, First Selectman (arrived 7:35 p.m.).

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

2. **Roll Call**

Chairman Mathieu asked the clerk to note those in attendance. J. Miller and J. Novak were seated as voting members.

3. **Additions to Agenda** –

C. Grimord asked that under #7 – “New Business & Applications Received” – Item D. **SESDPMOD # 11-015**, 315 Old Hartford Road to conduct the site improvements in two phases be added. He said that this application is for receipt only. He also asked that under # 9 – Pending Applications Item E be changed to the first item to be deliberated.

Chairman Mathieu called for a motion to add to the agenda under #7 New Business and Applications Received - Item D, **SESDPMOD # 11-015**, 315 Old Hartford Road to conduct the site improvements in two phases and to reorder the items under #9 Pending Applications to move Item E to be first be deliberated first.

So moved by T. Kane, seconded by D. Gesiak. **Motion carried unanimously.**

4. **Minutes of Previous Meeting - Regular Meeting – September 7, 2011**

Motion by J. Novak, seconded by T. Kane to approve the minutes of the September 7, 2011 meeting as written.
Abstentions: J. Mathieu All others in favor **Motion carried.**

5. **Public Hearings** –

C. Grimord read the Public Hearing legal notice published in the Rivereast on September 23 and September 30, 2011.

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 the Public Hearings. No comments were made. He went on to explain the Public Hearing procedure.

A. **SE#11-009-Application of Mark & Darlene Goodwin Applicant/Owner;** Special Exception application per Section 11.15 for an Accessory Apartment at 34 Pickerel Lake Road, Map #03-19, Lot #018-002, R-60 Zone. (Public Hearing Scheduled for 10/5/11)

C. Grimord explained that the application concerned is for an Accessory apartment which would consist of a 95 square foot addition to the existing home, which will connect to the upper level of an existing garage converting the 60 existing square feet of storage space to the accessory apartment. The lot is a “Flag Lot” in the R-40 Zone. Staff concluded that this application met all the Special Exception Criteria and Chatham Health District has given a conditional approval with the provision that soils testing be performed to insure that property has potential to support and expand the septic system. Discussion followed.

Speaking in Favor – No one spoke

Speaking in Opposition – No one spoke

Motion by J. Rosenthal, seconded by J. Novak to close the Public Hearing on SE#11- 009. **Motion carried unanimously.**

6. **Preliminary Reviews** – None

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7. New Business & Applications Received

- A. **SDP#11-013-Town of Colchester P&Z Commission, Five J, LLC Applicant/Owner**; Site Plan Modification to SDP#11-011 to request a waiver to the sidewalk requirement for property at 524 New London Road, Map # 1-10, Lot 03B-000, R-60 Zone.
- B. **SDP#11-014-Town of Colchester, P&Z Commission, Terry Howard Applicant/Owner**; Site Plan Modification to SDP#10-005 to request a waiver to the sidewalk requirement for property at 532 New London Road, Map # 1-10, Lot 03A-000, R-60 Zone.
- C. **SUB#11-424-Town of Colchester P&Z Commission, Jordan Alley, LLC applicant/Owner**; Subdivision Plan Modification to SESUB#09-416 to request a waiver to the sidewalk requirement for the 5-lot subdivision located on Cabin Road, Map # 03-00, Lot 001-000, R-30 Zone.
- D. **SESDPMOD # 11-015 315 Old Hartford Road**, 315 Old Hartford Road to conduct the site improvements in two phases. This application is for receipt only.

8. Five Minute Session for the Public – No one spoke

9. Pending Applications -

- A. **SE#11-008-NERP Holding & Acquisitions Co. LLC, S. Guarnaccia, et al Applicant/Owner**; Special Exception/Site Plan application per Section 6.7 to construct a 2-building retail development with associated parking and drainage within the Aquifer Protection Zone, Map #03-09, Lot #018-000, General Commercial/APZ Zones. Property is located on the south west corner of the intersection of New London Rd. (A.K.A. CT RTE. 85) and Lake Hayward Rd. (Public Hearing opened 7/20/2011; continued to 8/17/2011; continued and closed on 9/7/2011.)

C. Grimord said that all outstanding issues have been addressed. A. Turner explained that the remaining issues regarding signage and the sign lighting had been addressed by staff. He recommend that the Commission approved the waiver for the free standing sign and allow a 75 square foot sign but require that the sign be externally lit with downward directed lighting. The waiver would also allow this free standing sign to be 20' feet high to the tip of the peaked roof. Discussion followed.

Chairman Mathieu advised the Commission that the sign waiver would require a 2/3 (5 out of 7) vote of the Commission

Motion by T. Kane, seconded by J. Rosenthal to adopt by Commission vote the Staff Finding on the Aquifer Protection Overlay Zone (APOZ) Criteria, specifically Section 6.7.2.A., Section 6.7.2.B and Section 6.7.2.C. and the Commission further adopts the Special Exception Evaluations Criteria Section 11.5.1 – 11.5.7., as referenced in the Staff memo dated September 15, 2011. **Motion carried unanimously.**

Motion by T. Kane, seconded by J. Rosenthal to defer 45 of the required 126 parking spaces as detailed on the plan, on the findings based on staff review, the applicant's testimony regarding usage at other stores, the number of spaces required by our Regulations may be excessive; by reducing the parking spaces it would reduce impervious surface; and that this will be a note added to the final plans. **Motion carried unanimously**

Motion by T. Kane, seconded by J. Rosenthal pursuant to Section 16.2.3.A, the Commission waive the existing regulations to allow for a 75 square foot free standing sign which will be externally illuminated with downward lighting and the Commission will also waive the height requirement to allow a sign 20' to the peak. Voting in favor: T. Kane, J. Rosenthal, D. Gesiak, J. Miller and J. Novak. **Motion carried unanimously.**

Motion by T. Kane, seconded by J. Rosenthal to approve Special Exception SE#11-008, application of NERP Holding & Acquisitions Co. LLC, Special Exception/Site Plan application to construct a 2-building, 2-phased, retail development in the Commercial/APZ Zones, with the following modifications:

1. Prior to filing the signed and approved Mylar Plans, the applicant is to submit applications and plans for the lot line adjustments to be made with the abutting property owners for the conveyance of the land shown on the plans.
2. Phase development lines are to be shown and labeled on sheets 2 & 3 of the plans, per Exhibit W;
3. Site Lighting changes as proposed in exhibit "W" are to be incorporated into the final plans;
4. The revised landscaping plans as shown in exhibit "W" are to be incorporated into the final plans;
5. The building awnings on the Tractor Supply Company building are to be red in color.

6. Shopping carts are not to be stored in the designated parking areas;
7. There are to be no signs (other than directional signs) located on the fences, light poles, awnings or trees on the site.
8. The 25' setback requirement from the cemetery is to be labeled a "Non-Disturbance Area" on the final plans.
9. Applicant is to obtain a drainage easement from the State of CT D.O.T. for the increase in storm discharge for the two year storm.
10. The following notes are to be added to the final plans:
 - A. Should the Commission determine in the future that there is inadequate parking for the uses; the deferred parking spaces shown on the plans will be required to be constructed.
 - B. The P&Z Commission has granted a waiver to the free standing sign size and height requirements for this development from 36 square feet to 75 square feet, and a total sign height of 20 Feet to the peak. The free standing sign is to be externally lighted with downward directed lighting onto the sign.

T. Kane noted that the waiver for the signs should not be looked as a precedent being set by the Commission for development in this new Commercial area. The approval of the waiver was granted after hearing testimony from the applicant and presentations from the Staff. This development is the first in this area and is out of the way and not visible from the road. Chairman Mathieu stated that this was a unique situation because of the access restrictions it placed on the applicant by the State of Connecticut and should not be looked upon by future applicants as a precedent set by this approval of the sign waiver.

Vote was taken. **Motion carried unanimously.**

- B. SDP#11-013-Town of Colchester P&Z Commission, Five J, LLC Applicant/Owner; Site Plan Modification to SDP#11-011 to request a waiver to the sidewalk requirement for property at 524 New London Road, Map # 1-10, Lot 03B-000, R-60 Zone.

C. Grimord explained that this application and the following two applications were Commission sponsored Site Modifications applications due to the fact the applications were approved with a fee in lieu of construction of the sidewalks. Town Attorneys have advised that the sidewalk regulation in effect at the time the application was approved allowing for a fee in lieu of sidewalk construction was not authorized by state statute. Current regulations allow a waiver to the sidewalk requirement at the Commission's discretion with a three-quarters majority approval of the Commission.

Motion by T. Kane, seconded by J. Rosenthal to waive the construction of sidewalks along the frontage of 524 New London Road as shown on the approved Site Plan #11-011 for the following reasons:

1. There is little expected pedestrian or vehicle traffic generated by the use.
2. The site is not high density residential area;
3. The site is well outside the one mile radius to the nearest school.

Voting in favor: T. Kane, J. Rosenthal, D. Gesiak, J. Miller and J. Novak and Chairman Mathieu. No one opposed.

Motion carried unanimously.

- C. SDP#11-014-Town of Colchester, P&Z Commission, Terry Howard Applicant/Owner; Site Plan Modification to SDP#10-005 to request a waiver to the sidewalk requirement for property at 532 New London Road, Map # 1-10, Lot 03A-000, R-60 Zone.

C. Grimord advised the Commission that the same synopsis of this application applies to this application as to SDP#11-013 with the exception that the applicant was required to bond the sidewalk prior to commencement of construction as the Town had not yet agreed on a fee schedule.

Motion by T. Kane, seconded by J. Rosenthal to waive the construction of sidewalks along the frontage of 532 New London Road as shown on the approved Site Plan #10-005 and release the bond currently held for the following reasons:

1. There is little expected pedestrian or vehicle traffic generated by the use.
2. The site is not high density residential area;
3. The site is well outside the one mile radius to the nearest school.

Voting in favor: T. Kane, J. Rosenthal, D. Gesiak, J. Miller and J. Novak and Chairman Mathieu. No one opposed. **Motion carried unanimously.**

- D. **SUB#11-424-Town of Colchester P&Z Commission, Jordan Alley, LLC applicant/Owner;** Subdivision Plan Modification to SESUB#09-416 to request a waiver to the sidewalk requirement for the 5-lot subdivision located on Cabin Road, Map # 03-00, Lot 001-000, R-30 Zone.

C. Grimord explained that this application is also a Commission sponsored application to modify the approved referenced subdivision sidewalk requirement. The previously approved subdivision plan modification accepted a fee in lieu of the construction of the proposed sidewalks. Town Attorneys have advised that the sidewalk regulation in effect at the time the application was approved, allowing for a fee in lieu of sidewalk construction, was not authorized by state statute. Current regulations allow a waiver to the sidewalk requirement at the Commission's discretion with a three-quarters majority approval of the Commission.

J. Miller expressed his opinion that sidewalks should be constructed in this area. Discussion followed regarding the feasibility of the construction of sidewalks on Cabin Road considering the impact on the wetlands and the burden of maintenance for the Town of these sidewalks if constructed.

Motion by J. Miller to table this application to give time for staff to review this area and perhaps give the Commission another evaluation on this. There was no second on this motion. Mr. Miller withdrew the motion.

Motion by T. Kane, seconded by J. Rosenthal to approve the waiver of sidewalks along the frontage of Cabin Road on Subdivision Plan #09-416 as applied for in Modification SUB #11-424 with the findings:

1. The site is outside the one mile radius to the nearest school
2. There are no sidewalks on either side of the proposed sidewalk area or on the other side of the road;
3. The areas on both sides of the subdivision are already developed and no sidewalks would connect to the constructed sidewalk in the foreseeable future.

Voting in favor: T. Kane, J. Rosenthal, D. Gesiak, J. Miller and J. Novak and Chairman Mathieu. No one opposed. **Motion carried unanimously.**

- E. **SE#11-009-Application of Mark & Darlene Goodwin Applicant/Owner;** Special Exception application per Section 11.15 for an Accessory Apartment at 34 Pickerel Lake Road, Map #03-19, Lot #018-002, R-60 Zone. (**Public Hearing Scheduled opened on 10/5/11 and closed**)

This item was taken as Item A under Pending Applications. See motion under "Additions to the Agenda."

Motion by T. Kane, seconded by J. Rosenthal that the Planning & Zoning Commission has reviewed the application and the findings outlined in the memorandum dated September 29, 2011 from staff and concur with the findings as presented, the Commission hereby approves Special Exception application SE#11-009 Mark and Darlene Goodwin, Applicant/Owners; Application for an Accessory apartment at 34 Pickerel Lake Road, Assessors Map #03-19, Lot #018-002, R40-Zone with the following conditions:

1. The Special Exception Notice of Decision is to be filed in the Town's land records prior to issuance of Zoning & Building permits for the construction of the addition and conversion to create the Accessory Apartment.
2. Zoning and Building permits are to be obtained for the construction of the addition and accessory apartment.
3. A Certificate of Zoning Compliance is required prior to issuance of a Certificate of Occupancy.
4. Subject to the compliance with the Public Health Code requirements, specifically, but not limited to the septic testing and approval by Chatham Health District.

Motion carried unanimously.

10. Old Business – None

11. Planning Issues & Discussions

A. Turner updated the Commission on the progress of the Draft of Zoning Regulations. He said that the draft is currently being formatted and that he and C. Grimord have been reviewing the draft and making additions, corrections, etc. He explained that the Site Development Regulations will be an appendix to the Regulations to make it easier for use by applicants. He will email a copy to each Commissioner and each Commissioner can make comments and return the comments to him only due to public meeting restrictions. He suggested a Special Workshop meeting. This will be discussed at the next meeting.

12. Zoning Enforcement Officer's Report - August 2011 report

The Zoning Enforcement Officer's Report for August 2011 was included in the Commissioner's packets. Discussion followed regarding Enforcement Number 09-006 and 11-011.

C. Grimord explained to the Commission the process he is following regarding the enforcement of the temporary sign regulations. Discussion followed.

13. Correspondence – None

J. Miller, Alternate Commission member asked for clarification on an Alternate's role during Public Hearings and deliberations. Chairman Mathieu explained that an Alternate may participate in the Public Hearings and ask questions. Alternates are not allowed to participate in deliberations if they are not seated for the application.

14. Adjournment

Motion by J. Rosenthal, seconded by D. Gesiak to adjourn at 8:31 p.m. **Motion carried unanimously.**

Gail N. Therian, Clerk