

COLCHESTER PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES
Wednesday, June 17, 2015
127 NORWICH AVENUE, COLCHESTER, CT
7:00 P.M.

MEMBERS PRESENT; Chairman Joe Mathieu; John Novak, Vice Chairman, Mark Noniewicz, Stacey Brown, John Rosenthal, Dave Gesiak and Jason Tinelle; John Reeve, Board of Selectmen Liaison

MEMBERS ABSENT:

STAFF PRESENT: Adam Turner, Town Planner, Randy Benson, Asst. Planner/ZEO; and 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 Meetings** – Minutes of the Regular Meeting of June 3 2015

Motion by J. Novak, seconded by J. Rosenthal to approve the Regular Meeting Minutes of June 3, 2015 as written.
Abstentions: M. Noniewicz and S. Brown All others in favor **Motion carried.**

5. **Pending Application**

- A. **RESUB#15-432 – Robert Gustafson, Applicant/Owner;** 151 Taylor Road, Assessor's Map 02-14, Lot 003-003, Proposed 2 lot Resubdivision. Rural District. (Public Hearing opened and closed on 6/3/15 ;)

S. Brown and M. Noniewicz submitted written affidavits that they had listened to the audio portion of the June 3, 2015 meeting for SE#15-024; ReSub#15-432; SE#15-025, SDP#15-031, ZC#15-202 and RC#15-210.

Chairman Mathieu said that this Public Hearing closed at the June 3, 2015 meeting.

R. Benson said that he has added one condition to his memo regarding the Conservation Easement. All other issues have been addressed.

Motion by M. Noniewicz, seconded by J. Rosenthal to approve the requested waiver to Section 6.3.12.1.5, to not construct sidewalks

for this subdivision for the following reasons:

- A. The site is more than a mile from the nearest school.
B. The site is located in an Rural low residential density zone with no nearby commercial, industrial or institutional activities that would warrant sidewalks for public safety. Sidewalks in this area would be of little benefit to the community. There are no sidewalks anywhere in the vicinity of this portion of Taylor Road and the installation of sidewalks on Taylor Rd would detract from the rural character of the area.
C. The subdivision of the lot is to provide a building lot for members of the immediate family and not for resale.

Motion carried unanimously.

Motion by M. Noniewicz, seconded by J. Rosenthal to approve Resubdivision application SUB#15-432, application of Robert and Louise Gustafson for a 2-lot Resubdivision of 18.14 acres as shown on plans titled "Re-subdivision Plan", 3 sheets dated March 2, 2015 prepared by Rob Hellstrom Land Surveying LLC, with the following modifications:

1. Add the following notes to the final plans for Commission endorsement:
 - A. A waiver to Section 6.3.12.1.5 for the installation of sidewalks has been granted.
 - B. Once the "rights to drain" are secured and recorded over the downgrade abutters property, these rights should be noted with volume and page references on the final approved subdivision plan prior to filing the plan on the Colchester land records.

Conditions

1. A condition that the applicant shall provide a deed or some other legally binding document for the new lot to

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- demonstrate the subdivision is a family subdivision so it is exempt from the Section 6.5.3a of the Colchester Subdivision Regulations for open space and affordable housing. The document shall be filed in the Town of Colchester Land Records.
2. The proposed utility pole on the west side of the proposed driveway access shall be placed so it does not impede the driveway sight lines.
3. The Conservation Easement language shall be submitted to the Wetlands Enforcement Officer for his review and approval prior to being filed on the Colchester Land Records.

Motion carried unanimously.

6. Public Hearings –

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.

- A. **SE#15-025 Rodney Goldberg, Goldilocks Self Storage LLC, Applicant/Owner:** Application for Special Exception to construct a new self storage unit on property located at 359 Lebanon Avenue, Tax Assessor's Map # 05-06, Lot #21-002, located in General Commercial Zone. (Received on 1/21/2015; Public Hearing opened on 4/1/2015; continued to 4/15/15, 5/13/15, 6/3/15 and 6/17/2015)
- B. **SD#15-031-Rodney Goldberg, Goldi-Locks Self Storage LLC, Applicant /Owner:** Application for Site Plan to construct a new 80' x340' self storage building with associated drives and parking. 359 Lebanon Ave., Tax Map # 5-6, Lot # 021-002, General Commercial Zone. (Received on 1/21/2015; Public Hearing opened on 4/1/2015; continued to 4/15/15, 5/13/15, 6/3/15 and 6/17/15)

Chairman Mathieu stated that this Public Hearing was continued from the June 3, 2105 meeting.

R. Benson told the Commission that on the recommendation of the Town Engineer, there will only be one (1) larger detention basin instead of two (2) smaller detention basins. The revised plans showing the one (1) detention basin have been reviewed by the Town Engineer and meet his approval. All other issues have been addressed.

Speaking in Favor

Charles Dutch, Dutch and Associates, spoke on behalf of Goldilocks Self Storage, LLC. said that the modification to the detention basin has been approved by the Colchester Conservation Commission.

Speaking in Opposition

Frank Zito, 12 Freedom Way, entered another copy of the petition signed by 108 residents of the Northwoods. He also expressed his concern about the proposed blasting.

Fred Baldauf, 16 Freedom Way, concerned about the blasting that will be done and the time line of 7 – 10 days. He also suggested reducing the size of the building to eliminate the blasting.

Ellen Marshall, 31 East Court, expressed concerns about the proposed blasting and its effects on the propane tanks in the ground. She also had concerns about this Special Exception being approved.

Chairman Mathieu explained the Special Exception process and the criteria that need to be met in order to approve this type of application.

Rebuttal to those who spoke in Opposition

Charles Dutch, Dutch and Associates said that he does not know how the time of 7 – 10 days of blasting as claimed by the opposition was reached. He said that the Town Fire Marshal is aware of the situation and will be monitoring the blasting. Discussion followed regarding the blasting, buffering and the possible reduction in the size of the building.

Rebuttal to those who spoke in Favor -

Fred Baldauf, 16 Freedom Way, again expressed his concern about the blasting.

Frank Zito, 12 Freedom Way, expressed his concern about the proposed blasting.

Ellen Marshall, 31 East Court, reiterated her concern about the 7-10 days to blasting and agreed that the size of the building should be reduced.

Motion by M. Noniewicz, seconded by D. Gesiak to close the Public Hearing on SE#15-025 and SD#15-031. **Motion carried unanimously.**

- C. **ZC#15-202; Town of Colchester Zoning and Planning Commission, Applicant;** The zoning designation change is for a portion of the lot located at 9 Loomis Road. The zoning district in Westchester village does not permit business development along Route 149. The intent is to permit development along Route 149 providing it accesses Route 149 and any building is within 200 feet of the roadway. The map change will be for a portion of the property located at 9 Loomis Road, Map 03-17, Lot 053-000. The portion of the property that abuts Route 149 (Westchester Road) starting from the existing Westchester Village Zone boundary on the property to a point 50 feet before the intersection of Route 149 and Loomis Road will be changed from Rural Zone to Village Zone. This portion of the property that will be rezoned will be 165 feet in depth. (Public Hearing opened on 6/3/15 and continued to 6/17/15)
- D. **RC#15-210; Town of Colchester Planning and Zoning Commission, Applicant;** Application to add Section 1.2 of the Colchester Land Development Regulations to address properties that are split between two zoning boundaries. The new Section 1.2 will state, "Where a district boundary divided a lot of record at the same time such boundary line is adopted, the regulations for the less restricted portion of such lot may extend not more than 50 into the more restricted portion provided that the lot has frontage on a street in the less restricted district."

The application also includes amendments to the text of Section(s) 4.3.3, 4.6.5 and 8.8(1) of the Colchester Land Development Regulations. Section 4.3.3 is to be amended to add "In addition, multi-family uses shall be not permitted once the total amount of multi-family units permitted in this zone is 200 units. No more than 100 units will be permitted on any multi-family site in the suburban district." The text of Section 4.6.5 is to be replaced with, "Side and Rear setbacks shall be 35 feet. Front yards shall be a minimum of 10 feet." Section 8.8(1) will be amended to state, "Zoning Permits for short term temporary events may be granted for an event up to 10 days. One extension of no more than 10 days may be granted by the Commission in any district provided the event will be conducted in accordance with the provisions of the permit during the permit period. Permanent or annual events may be permitted by the Commission initially and then renewed annually by the ZEO. Adequate provisions shall be made for safe access and traffic control, off street parking, water supply, sewage disposal and emergency medical treatment for those attending the activity." (Public Hearing opened on 6/3/15 and continued to 6/17/15)

Chairman Mathieu said that these Public Hearings had been continued from the June 3, 2015 meeting.

A. Turner read a letter in support of the Zone Change from James Ford, Chairman of the Colchester Economic Development Commission. He reviewed the history of the zoning of this parcel. He explained that the purpose of the new proposal was economic development and it had been scaled back almost 80% of the original proposal. He spoke about the positive impact on the Westchester Village District if there is economic development the area of Route 16 and Route 149. He said that this rezoning is in compliance with both the 2001 and the 2015 Plan of Conservation and Development.

Speaking in Favor

John Markham, lived in Westchester, said he was in favor of economic development in this area.

Wayne Rioux, lives in Westchester, said he would like to see some economic development to improve the area.

Terrance Clark, Colchester, said he believes that Route 149 and Route 16 is a good location for businesses.

Robin Pearson, Alter and Pearson, said she reviewed the testimony from the last meeting. She said she felt that this rezoning is a fair compromise to both the land owner and the neighbors. She reviewed the process of the December 16, 2014 meeting minutes regarding the Commission's discussion on the rezoning of this parcel at that time. She said that she believes that this zone change is consistent with the 2001 and 2015 Plan of Conservation and Development.

Speaking in Opposition

Lewis Wise, Esquire, Rogin Nassau, LLC, said he represented a group of home owners in the neighborhood of 9 Loomis Road. He also reviewed the December 16, 2014 meeting minutes regarding the Commission's discussion on the rezoning of this parcel at that time and found that the Commission wanted to applicant to initiate this zone change. He suggested that the parcel remain split-zoned and if the owner of 9 Loomis Road wishes he could submit and application for a zone change and present a site plan with his proposed commercial development.

Jeff Seeley, 75 Loomis Road, said he felt neighbors should have been notified of this zone change.

Susan Mausteller, 6 Loomis Road, spoke about spot zoning and buffering of neighboring properties. She submitted a letter and notes to be added to the Public Hearing record.

Motion by S. Brown, seconded by J. Tinelle to continue the Public Hearing on ZC#15-202 and RC #15-210.

Discussion followed and Chairman Mathieu suggested that testimony continue on this application until 9:30 p.m. to allow time for the Commission to handle the remaining items on the agenda.

A vote was taken. In Favor: S. Brown Opposed: J. Tinelle, M. Noniewicz, D. Gesiak, J. Rosenthal and J. Novak.
Motion failed.

Speaking in Opposition continued:

Cynthia Blackham, 30 Old Country Road, expressed concerns about the preferential treatment to the property owner of 9 Loomis Road and felt that the property owner knew of the limitations of the property when it was purchased.

Kevin Smith, 25 Loomis Road, said he is concerned how the development of this property will affect the existing businesses in the area.

Chris Bourque, 391 Westchester Road, said he was surprised that this rezoning was being considered.

Rebuttal to Those who spoke in Opposition:

Robin Pearson, Alter and Pearson, said that this was a good compromise on both sides to address the only existing split zone property in the Town of Colchester.

Rebuttal to Those who spoke in Favor:

Lewis Wise, Esquire, Rogin Nassau, LLC, reiterated his idea that the owner of the property should submit a zone change application and a site plan showing the neighbor's his intentions.

Jeff Seeley, 75 Loomis Road, said that the property zone should remain the same as it was when it was purchased.

Susan Mausteller, 6 Loomis Road, would like to see a true Village district in the Westchester area.

John Norville, 65 Loomis Road, said he would like to see the area keeps its natural beauty.

Motion by S. Brown, seconded by J. Rosenthal to close the Public Hearing on ZC#15-202 and RC#15-210.
Motion carried unanimously.

7. Preliminary Reviews:

- A. **127 Old Hartford Road, preliminary review of proposed Zone Change, Special Permit and Site Plan applications.**

The Commission decided to postpone action on Item 7A due to a time constraint.

Motion by S. Brown, seconded by J. Rosenthal to postpone action on item 7A. **Motion carried unanimously.**

8. New Business & Applications Received: - None

9. Five Minute Session for the Public - No one Spoke

10. Pending Applications:-

- A. **SE#15-024 Leonard Przekopski, Jr. Applicant/Owner:** Application for Special Exception to conduct an Excavation on property located at 36 Pine Road, Tax Assessor's Map# 5-14, Lot #9, located in an R-60 Rural Residential Zone; property located east of Pine Brook Road, west of Cato Corner Road and south of Pine Road, Tax Assessor's Map #5-14, Lot #7, located in an R-60 Rural Residential Zone; and property located north of Pine Road and west of Cato Corner Road, Tax Assessor's Map #5-14, Lot# 11, located in an R-40 Suburban Residential Zone and within the Aquifer Protection Overlay Zone [Received on 1/21/15; Public Hearing opened on 3/4/15; continued to 3/18/2015,4/1/2015,4/15/15 and 5/13/15. Public Hearing closed on 5/13/15]

A. Turner reviewed the history of the application. He said that Mr. Przekopski has addressed the, phasing, bonding issue, and stormwater management. He said that the traffic is the issue to be addressed and reviewed his proposal for the handling of the traffic. He reviewed the finding and the General Evaluation Criteria in the Staff Review dated June 9, 2015. Discussion followed regarding the number of trips per day, the access and egress into the site and the enforcement of these restrictions. M. Noniewicz said he was in agreement with the Findings and General Evaluation Criteria in the Staff Review dated June 9, 2015.

Motion by M. Noniewicz, seconded by J. Rosenthal to approve SE#15-024 –Leonard Przekopski, Owner/Applicant: Application for a Special Exception for sand and gravel excavation at 36 Pine Road, Assessors Map #05-14, Lot #009-000, R-60 & Aquifer Protection Overlay Zones with the following conditions:

1. The following notes shall or amendments shall be added to the final plans:
 - A. Zoning Permits are required before the start of work for each phase.
 - B. A signature block for the Planning and Zoning Commission Chairman to sign shall be added to the first sheet of the plan.
 - C. On the plans by Milone and MacBroom last revised March 24, 2015, each phase shall be numbered to correspond to the color coding for each phase. This is to clarify each phase because the colors will not be on the filed sets on the land records.
2. Three copies of the plans and a Mylar set shall be submitted to the Planning and Zoning Department for the P&Z chairman's signature prior to filing them with the Notice of Decision on the Colchester land records.
3. The bonds shall be submitted for Phase's 1 and 2 prior to the commencement of any work. The bonds shall be in a form and amount acceptable to the Town Engineer and Zoning Enforcement Officer
4. A natural buffer of 100 feet shall be left undisturbed between the excavation operations and the abutting properties on Pine and Westchester Roads.
5. The applicant shall be limited to four truck trips per day using access from Pine Road. If the applicant provides a legally permitted access to Westchester Road on-site, the limitation of 4 trucks entering/exiting per day can be exceeded only if the access for entering and exiting on Westchester Road is utilized and access from Pine Road eliminated. The applicant is further limited to 6 trucks entering/exiting per day using roadways other than Pine Road for access. Trucks are defined as either 18 yard tri-axle trucks or 7 yard dump trucks. The section of Pine Road that connects Cato Corner Road to Pine Brook Road is not considered in regard to the limitation on the number of trips on Pine Road and is not considered in this decision.
6. The hours of operation for trucks utilizing Pine Road shall be Monday through Friday, 8:30AM to 2:00PM. If the applicant provides a legal permitted access to Westchester Road, the limitation of hours can exceeded only if the access for entering and exiting on Westchester Road is utilized. Hours of operation for trucks utilizing other access locations other than Pine Road shall be pursuant to Zoning Code section 11.8.1.
7. The applicant shall construct or provide proof that a containment structure exists to contain the volume of fuel that the existing fuel tank can hold. The containment structure shall be subject to the approval of the Colchester Fire Marshal.
8. The approval of this permit shall be for two years and can be extended/reauthorized or amended through process established in Section 11.8. One of the criteria used for re-authorization is regular compliance with these regulations and conditions of approval as a special exception.

Discussion followed regarding the work within the property that can be done before the issuance of the permit and modification of the permit.

Motion carried unanimously.

- B. **SE#15-025 Rodney Goldberg, Goldilocks Self Storage LLC, Applicant/Owner;** Application for Special Exception to construct a new self storage unit on property located at 359 Lebanon Avenue, Tax Assessor's Map # 05-06, Lot #21-002, located in General Commercial Zone. (Received on 1/21/2015; Public Hearing opened on 4/1/2015; continued to 4/15/15, 5/13/15, 6/3/15 and 6/17/2015)
- C. **SD#15-031-Rodney Goldberg, Goldi-Locks Self Storage LLC, Applicant /Owner;** Application for Site Plan to construct a new 80' x340' self storage building with associated drives and parking. 359 Lebanon Ave., Tax Map # 5-6, Lot # 021-002, General Commercial Zone. (Received on 1/21/2015; Public Hearing opened on 4/1/2015; continued to 4/15/15, 5/13/15, 6/3/15 and 6/17/2015;)
- D. **ZC#15-202; Town of Colchester Zoning and Planning Commission, Applicant;** The zoning designation change is for a portion of the lot located at 9 Loomis Road. The zoning district in Westchester village does not permit business development along Route 149. The intent is to permit development along Route 149 providing it accesses Route 149 and any building is within 200 feet of the roadway. The map change will be for a portion of the property located at 9 Loomis Road, Map 03-17, Lot 053-000. The portion of the property that abuts Route 149 (Westchester Road) starting from the existing Westchester Village Zone boundary on the property to a point 50 feet before the intersection of Route 149 and Loomis Road will be changed from Rural Zone to Village Zone. This portion of the property that will be rezoned will be 165 feet in depth.
- E. **RC#15-210; Town of Colchester Planning and Zoning Commission, Applicant;** Application to add Section 1.2 of the Colchester Land Development Regulations to address properties that are split between two zoning boundaries. The new Section 1.2 will state, "Where a district boundary divided a lot of record at the same time such boundary line is adopted, the regulations for the less restricted portion of such lot may extend not more than 50 into the more restricted portion provided that the lot has frontage on a street in the less restricted district."

The application also includes amendments to the text of Section(s) 4.3.3, 4.6.5 and 8.8(1) of the Colchester Land Development Regulations. Section 4.3.3 is to be amended to add "In addition, multi-family uses shall be not permitted once the total amount of multi-family units permitted in this zone is 200 units. No more than 100 units will be permitted on any multi-family site in the suburban district." The text of Section 4.6.5 is to be replaced with, "Side and Rear setbacks shall be 35 feet. Front yards shall be a minimum of 10 feet." Section 8.8(1) will be amended to state, "Zoning Permits for short term temporary events may be granted for an event up to 10 days. One extension of no more than 10 days may be granted by the Commission in any district provided the event will be conducted in accordance with the provisions of the permit during the permit period. Permanent or annual events may be permitted by the Commission initially and then renewed annually by the ZEO. Adequate provisions shall be made for safe access and traffic control, off street parking, water supply, sewage disposal and emergency medical treatment for those attending the activity."

Motion by S. Brown, seconded by J. Rosenthal to postpone action on SE#15-025, SD#15-031, ZC#15-202 and RC#15-210 to the next regularly scheduled meeting. **Motion carried unanimously.**

- 11. **Old Business – None**
- 12. **Planning Issues & Discussions – None**
- 13. **Zoning Enforcement Officer's Report – None**
- 14. **Correspondence – None**
- 15. **Adjournment**

Motion by M. Noniewicz, seconded by D. Gesiak to adjourn at 10:16 p.m. **Motion carried unanimously.**