

MEMBERS PRESENT: Chairman Laurie Robinson, Patrick Reading, Michael Solis, Bob Setschinsky and Patricia Hayn; Selectman's Liaison: Stan Soby; Staff: Craig Grimord, Assistant Town Planner/Zoning Enforcement Officer; Gail Therian, Clerk

MEMBERS ABSENT: Alternate: Christopher Bourque

1. CALL MEETING TO ORDER.

Chairman Robinson called this meeting to order at 7:06 p.m.

2. ADDITIONS TO AGENDA None

3. PUBLIC HEARINGS -

- A. ZBA#11-001, Leonard & Karen Przekopski, Applicant/Owner, for property located at 36 Pine Road, Tax Map # 05-14, Lot #009-000, R-60 Zone, at the South West corner of the intersection of Pine Road and Pine Brook Road. Applicant is appealing the decision of the Zoning Enforcement Officer to deny Zoning Permit Application ZP#11-290 for a Certificate of Zoning Compliance for existing activities on the site. (Public Hearing opened 6/14/11, continued to Special Meeting on 7/12/2011)

Chairman Robinson reviewed the ground rules for the hearing. The voting members on this application: L. Robinson, P. Reading, M. Solis, B. Setschinsky, and P. Hayn. The Public Hearing opened at 7:10 p.m. Copies of the Exhibit List which included the items received since the last meeting was distributed to the Commission members and the applicant.

Atty. Ron Ochsner, representing Mr. & Mrs. Przekopski, said that he would be requesting an extension to keep the Public Hearing open. He said due to a health issue, he needed more time to gather information to submit to the Board.

Chairman Robinson said that she would begin by offering the opportunity for those who wished to Speak in Opposition of this application, as this is where the Public Hearing was continued from the Special Meeting on June 14, 2011.

Speaking in Opposition –

Tom Smith, 7 Pine Road, said that he reviewed the application file and that he is in support of the Zoning Board upholding the Zoning Enforcement Officer's decision. He also stated that there was an increase in traffic when the EMPAR work began on the site.

Tearice Peters reiterated her statement from the June 14, 2011 Special Meeting that she hoped that the Board would uphold the Zoning Enforcement Officer's decision.

Speaking in Favor

Butch Przekopski presented additional materials to be added to the Public Hearing Record, Items "CC" – "NN". (Copy of Exhibit List is attached to the Minutes.) He stated that the Town of Colchester has purchased sand and gravel from his father and from him since before Zoning Regulations and continued to do so until 2006. He said that he was one of the four (4) operators that did not receive a letter from the Town in 1985 regarding Sand and Gravel Pit regulations and that according to the EPA this property is not the Aquifer Protection Zone. He also said that recycling took place in the early 1960's when Town roads were being constructed. A discussion followed with questions from the Board members to Mr. Przekopski regarding the Special Exception application submitted to the Planning and Zoning Commission and his submittal of a Zoning Permit Application for the Zoning Enforcement Officer's approval.

Rebecca Przekopski spoke about the neighbor's traffic and safety concerns and said that a Traffic Study was conducted at the time of the Special Exception application submittal.

Atty. Ochsner submitted a letter requesting an extension to allow the Public Hearing to be continued on or before August 18, 2011.

Motion by: P. Reading
to accept the extension letter from Atty. Ochsner and to continue the Public Hearing to a date agreed upon by the Board members.

Second by: M. Solis

Vote: Motion carried unanimously

The members discussed the date to continue the Public Hearing and agreed upon the next regularly scheduled meeting on Tuesday, August 16, 2011.

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4. Pending Applications

A. ZBA#11-001, Leonard & Karen Przekopski

No action was taken as the Public Hearing was continued to the next regularly scheduled meeting on August 16, 2011.

5. Minutes of Previous Meeting – November 16, 2010 and Special Meeting – June 14, 2011

Motion by: P. Reading
to approve the minutes of the November 16, 2010 meeting as presented.

Second by: B. Setschinsky

Vote: Abstentions: P. Hayn and M. Solis All others in favor **Motion carried**

Motion by: P. Reading
to approve the minutes of the Special Meeting of June 14, 2011 as presented.

Second by: B. Setschinsky

Vote: **Motion carried unanimously**

6. New Business/Applications Received - None

7. Old Business - None

8. Zoning Enforcement Officer's Report -None

9. Correspondence - None

10. Adjournment

Motion by: M. Solis
to adjourn the meeting at 7:52 p.m.

Second by: P. Reading

Vote: **Motion carried unanimously**

Gail N. Therian, Clerk

ZBA #11-001-Leonard Przekopski-Appeal of ZEO Decision

EXHIBIT ITEMS

- A. ZBA Application for Appeal of the ZEO decision on Zoning Permit ZP#11-001, submitted of 3/28/11;
- B. Copy of the applicants deed with boundary description Vol. 963 Pgs. 20-23;
- C. Application for Zoning Permit submitted by Leonard & Karen Przekopski submitted on 2/15/11 and assigned application number ZP#11-290;
- D. Applicant's Zoning Permit application activity overview and narrative, 11 pages;
- E. Applicants application support attachments:
 - 1. Redacted Przekopski S&G Business records
 - 2. First Selectman Letter dated 11/2/98;
 - 3. Sand/salt stockpile detail;
 - 4. General Permit to construct and operate certain recycling facilities;
 - 5. Manure management and stockpiling guidelines;
 - 6. General Permit for the discharge of storm water;
 - 7. Milone & MacBroom wind born erosion report;
 - 8. Milone & MacBroom sound tests
 - 9. Milone & MacBroom noise monitoring results dated 10/20/08
 - 10. First Selectman Marvin letter dated 10/22/70;
 - 11. Przekopski Quit Claim deed dated 10/26/70
 - 12. Milone & MacBroom bond estimate
 - 13. Site Plan titled-Przekopski Sand & Gravel & Agriculture Operation Mapping, prepared for Przekopski Sand & Gravel, Westchester Rd, Pine Rd, Pine Brook Rd., by Joel M. Fuller, 12 sheets, dated 6/20/07 and revised to 9/11/07;
 - 14. Site restoration soil stockpile locations;
 - 15. Milone & MacBroom temporary sediment basin watershed map;
- F. ZEO's permit response letter denying the application, dated 3/1/11;
- G. Copy of the legal notice from the 3/4/11 issue of the RiverEast News Bulletin with the Notice of Decision on Zoning Permit ZP#11-290;
- H. Copy of letter dated 4/12/11 sent to the applicant (Certified Mail) informing them of the scheduled date of the Public Hearing for this application;
- I. Copy of the legal notice from the May 6th issue of the RiverEast News Bulletin;
- J. Copy of the May 2006 Cease & Desist Order, still in effect.
- K. Copy of the letter sent to the applicant with the agenda for the meeting on May 17th;
- L. Copy of letter from the Town's Attorney;
- M. Copy of the legal notice from the May 13th issue of the RiverEast News Bulletin;
- N. Copy of the Stipulation between Leonard Przekopski and the Colchester ZBA dated 3/7/07;
- O. Copy of the fax dated 5/16/11 from Attorney Ron Ochsner informing the ZEO of an error in the legal notice;
- P. Copy of the fax sent to Attorney Ron Ochsner requesting a 35-day extension in which to hold the Public Hearing on the application;

- Q. Copy of the letter dated 5/25/11 sent to the applicant with the agenda for the Special Meeting to be held on June 14th;
- R. Copy of the legal notice from the June 3rd issue of the RiverEast News Bulletin;
- S. Copy of the Special Meeting Agenda for 6/14/11;
- T. Copy of the legal notice from the June 10th issue of the RiverEast News Bulletin;
- U. ZEO defense, decision criteria and justification for denying Zoning Permit application ZP#11-290, dated 6/14/11.

Submitted at the 6/14/11 Public Hearing

- V. Letter dated 6/14/11 from attorney Ochsner;
- W. Six (6) notarized letters in favor of the applicant with cover letter dated 6/14/11 from K. Przekopski;
- X. LexisNexis summary of Keeney V. Town of Old Saybrook, 14 pages;
- Y. Resubmission of Exhibit Item L;
- Z. Site Plan titled-Przekopski Sand & Gravel & Agriculture Operation Mapping, prepared for Przekopski Sand & Gravel, Westchester Rd, Pine Rd, Pine Brook Rd., by Joel M. Fuller, 12 sheets, dated 6/20/07 and revised to 10/10/08;
- AA. Transcript from 2/20/07 superior court testimony of Alicia Watson;
- BB. Copies of previous ZBA appeal applications by the applicant from 6/01/06;

Submitted at the 7/12 Public Hearing

- CC. Copy of the Town of Colchester itemized Selectmen's Expenditures fiscal year ending September 15, 1960;
- DD. Copy of the Town of Colchester itemized Selectmen's Expenditures fiscal year ending September 15, 1966;
- EE. Copy of the Town of Colchester itemized Selectmen's Expenditures fiscal year ending September 15, 1969;
- FF. Copy of the Town of Colchester itemized Selectmen's Expenditures fiscal year ending September 15, 1971;
- GG. Copy of a portion of the Town of Colchester itemized Selectmen's Expenditures fiscal year ending September 15, 1973;
- HH. A copy of the Colchester Board of Education and Town invoices for the dates 11/01/02-8/31/06;
- II. Copy of an Aerial Photo from the CT state library of the sites from 1934;
- JJ. Copy of an Aerial Photo from the CT state library of the sites from 1965;
- KK. Copy of Dept. of Ag "FSA" aerial photo of the sites from 1979;
- LL. Copy of Dept. of Ag "FSA" aerial photo of the sites from 1990;
- MM. Two color photo's from 7/81 & 1/83 of the site;
- NN. Two color photo's taken July 2011 of the site;
- OO. Letter from Attorney Ochsner requesting an extension to keep the public hearing open till August 18, 2011;